



Board of Education Regular Meeting October 8, 2020

VIRTUAL MEETING INFORMATION

Due to the Covid-19 pandemic, District 64 is continuing to conduct Board of Education meetings online through Zoom. You can connect as an attendee through Zoom via a computer, mobile device, or phone, and you will be able to listen and view the meeting. While public attendees will be muted, they have the opportunity to email comments which will be read aloud during the public comments section of the meeting with the name of the submitter. Please write your comments in accordance with [Board Policy 2:230](#), including ensuring a 3-minute time limit when read.

Public comments will be read at the beginning of the meeting for non-agenda items, and during discussion of agenda items. Please email your comments to:

d64-publiccomments@d64board.org

Attendee Options to Connect:

- Please click this [link](#) to join the webinar through a computer or mobile device.
Password: 2mpN5Q
- iPhone one-tap: **US: +13126266799,,93151711602#,,,,,0#,,676683#**
- Telephone: **312 626 6799 US (Chicago)**
and dial when prompted –
Meeting ID: 931 5171 1602
Password: 676683

One District 64 administrator will participate in the virtual meeting from a public location and a limited number of the public will be able to attend. For the regular Board meeting on Thursday, October 8, Franklin School (Gym), 2401 Manor Ln, Park Ridge, will be the designated meeting location. The main entrance doors to the building will open 15 minutes prior to the start of the meeting. There is a strict limit of no more than 50 people gathering in one place in effect for this meeting, and face masks are mandatory. Anyone present at this location will be allowed to participate during the public comments portion of the meeting.

Please note that District 64 is following all meeting guidelines identified by the state.

Notes for online Board of Education meetings through Zoom:

- Attendees will be muted by default when calling or logging in to the Zoom meeting. The meeting will be in “listen only” mode.
- During the Public Comment portions, the Administrative Assistant to the Superintendent will read the emails that have been sent to d64-publiccomments@d64board.org.
- The District will make every effort to post recorded online Board meetings afterwards.

Inspire every child to



Meeting of the Board of Education Park Ridge – Niles School District 64

Regular Board Meeting Agenda
Thursday, October 8, 2020

VIRTUAL MEETING

Alternate Remote Attendance Location: Franklin School - Gym

On some occasions, the order of business may be adjusted as the meeting progresses to accommodate Board members' schedules, the length of session, breaks, and other needs.

7:00 p.m. Meeting of the Board Convenes

- Roll Call

Pledge of Allegiance

Opening Remarks from President of the Board

Public Comments

Each speaker is given 3 minutes to address the Board. Comments may be made on almost any matter related to the operation of schools. Each person appearing before the Board will be treated with courtesy and respect, and the Board requests the same in return. In light of the privacy of personnel and student matters, commenters are strongly discouraged from speaking about individual staff or students during public comment. Commenters are instead encouraged to first raise such concerns privately with the Board President or Administration. The Board, however, recognizes each commenter's First Amendment rights; thus, it will not prohibit commenters from speaking about individual staff or students, subject to well-recognized exceptions under the First Amendment, such as obscenity, threats, fighting words, or incitements to violence.

A-1 Approval of Meeting Agenda

--Board President

The Board reserves the right to review the agenda at the beginning of each meeting and request additions, amendments, or deletions prior to approval.

A-2 Student/Staff Recognition

- School Principals Appreciation Month

A-3 Review of 2020 Proposed Tax Levy & Resolution #1253 to Approve the 2020 Proposed Tax Levy & Establishment of Public Hearing

--Chief School Business Official

Action Item 20-10-1

A-4 Discussion of Summer 2020 Construction Projects

--Chief School Business Official/Director of Facility Management/Studio GC Architects

- A-5 First Reading of Policies from PRESS 105**
--Superintendent
- A-6 Approval of Recommended Personnel Report**
--Board President **Action Item 20-10-2**
- A-7 Consent Agenda**
--Board President **Action Item 20-10-3**
- Bills, Payroll and Benefits
 - Approval of Financial Update for the Period Ending August 31, 2020
 - Second Reading and Approval of Policy 4:180
 - Approval of Reciprocal Reporting Intergovernmental Agreement between the Village of Niles and the Boards of Education of School District Nos. 63, 64, 71, and Cook County, Illinois
 - Approval of Hold or Release of Closed Minutes
 - Destruction of Audio Closed Recordings (None)
- A-8 Approval of Minutes**
--Board President **Action Item 20-10-4**
- September 10, 2020 - Closed Meeting
 - September 10, 2020 - Regular Meeting
- A-9 Other Discussion and Items of Information**
--Superintendent
- Upcoming Agenda for November 12, 2020
 - FOIA Requests
 - District Committee Updates
 - PTO/A Presidents' Meeting on September 17, 2020
 - Memorandum of Information (None)
 - Minutes of Board Committees:
 - Board Policy Committee on September 15, 2020
- A-10 New Business**
- Adjournment**

Next Meeting: **Thursday, November 12, 2020**
 Regular Meeting - 7:00 p.m. **Virtual**
Alternate Remote Attendance Location: Roosevelt School - South Gym
 1001 S Fairview Ave, Park Ridge, IL 60068

In accordance with the Americans with Disabilities Act (ADA), the Board of Education of Community Consolidated School District 64 Park Ridge-Niles will provide access to public meetings to persons with disabilities who request special accommodations. Any persons requiring special accommodations should contact the Director of Facility Management at (847) 318-4313 to arrange assistance or obtain information on accessibility. It is recommended that you contact the District, 3 business days prior to a school board meeting so we can make every effort to accommodate you or provide for any special needs.

Approval of Meeting Agenda

The Board reserves the right to review the agenda at the beginning of each meeting and request additions, amendments, or deletions prior to approval.

To: Board of Education
From: Eric Olson, Superintendent
Date: October 8, 2020
Re: Student/Staff Recognition

October marks National Principal Appreciation Month. More specifically, Principals Week will be celebrated **October 19-23**, and Principals Day on **Friday, October 23**.

While this honor happens each year at this time, 2020 presents many more difficulties for our principals and assistant principals. These school leaders have faced unprecedented challenges related to COVID-19 during the end of the 2019-20 school year when we switched to remote learning, preparing to reopen for the 2020-21 school year and readjusting in preparation of the hybrid learning program.

I'm proud to say that our principals have faced these challenges head-on. It is through their perseverance and passion that District 64 continues to develop a drive in our students to discover, learn, achieve and care each day.

Our school leaders wear many hats as they serve as the hub and heart of our school communities. This month, we are asking our school communities to thank their principals and assistant principals for their hard work and commitment to educational excellence during National Principal Appreciation Month in October.

To: Board of Education
Dr. Eric Olson, Superintendent
From: Luann Kolstad, Chief School Business Official
Date: October 8, 2020
Re: Review of 2020 Proposed Tax Levy and Resolution #1253 to Approve 2020 Proposed Tentative Tax Levy and Establishment of Public Hearing

Purpose

This agenda item includes information about three important actions:

- Approve the Resolution for the 2020 Tax Levy Estimate
- Establish date and time for Truth-In-Taxation Hearing
- Publish the notice of Truth-In-Taxation Hearing

Background on Tax Levy Process

Per state statute, the school board must adopt an estimated tax levy not less than 20 days prior to the date it adopts its final levy. The final levy is scheduled for adoption at the December 10, 2020 regularly scheduled Board of Education meeting.

If the levy exceeds the previous year's operating fund extension by more than 5 percent, publication of the Truth-In-Taxation notice is required, and a hearing must be held before the levy is adopted.

Although the 2020 proposed levy does not exceed the 2019 levy by more than 5 percent, in keeping with the District's past practice, the District recommends conducting a Truth-In-Taxation hearing. This practice is consistent with the District's continued commitment to transparency and makes every step in the annual financial cycle open to the community. The hearing is planned to be held at 6:45 p.m. during the November 12 Board of Education regular meeting. Attachment 1 is the Resolution Determining the Estimated Tax Levy for the Year 2020 and Scheduling a Public Hearing thereon.

How the Levy Request is Structured

The variables in each year's levy are:

- Equalized Assessed Valuation (EAV) – unknown until July 2021
- New Property EAV (1st year property comes on the tax roll) – unknown until July 2021
- Prior Year Consumer Price Index, Urban (CPI-U) – 2.30% (CPI-U as of December 2019)

Because the amount of New Property EAV is unknown when the tax levy is filed, districts increase their levy so as to capture the funds that are available under the tax cap. Even with the increased request, the District will only receive the amount of dollars allowed under the Property Tax Extension Limitation Law (PTELL), known as the property tax cap.

No matter how large the levy request is for 2020, District 64 will only receive a 2.30 percent increase plus the taxes associated with new construction.

Setting the Levy Request

As the table below indicates, past Boards for more than a decade have always approved a levy request sufficiently high enough to capture all new property EAV. This decision has helped the District receive all monies it is entitled to receive, while still being subject to the tax cap. This has given the District maximum flexibility in allocating funds for current education and operations, while slowly strengthening the District’s financial position by increasing its operating fund balance. Strengthening the operating fund balance has allowed District 64 to fulfill the 10-year referendum commitment, and to extend that for additional years to meet a further Board goal according to current projections.

Levy Year	CPI Used in PTELL	Board Approved Levy Request	Actual Levy Increase
2020	2.30%	3.93% Proposed	Unknown
2019	1.90%	4.87%	2.71%
2018	2.10%	4.64%	2.93%
2017	2.10%	4.95%	2.94%
2016	0.70%	4.21%	1.47%
2015	0.80%	4.53%	0.78%
2014	1.50%	4.63%	1.90%
2013	1.70%	4.98%	2.50%
2012	3.00%	4.74%	3.10%
2011	1.50%	4.99%	1.70%
2010	2.70%	4.99%	3.60%
2009	0.10%	4.59%	0.80%
2008	4.10%	2.18%	1.50%
2007	2.50%	Referendum Driven	14.40%
2006	3.40%	Referendum Driven	19.10%
2005	3.30%	13.41%	9.20%

For 2020, based upon the increase in the 2019 CPI-U of 2.30 percent and the projected increase in New Property EAV (see Attachment 2), our District's tax rate model has calculated that a 3.93 percent increase in the overall projected 2020 levy dollars from the prior year's levy should be sufficient to capture all that District 64 is legally entitled to receive. *As the historical portion of the table above indicates, District 64 expects to receive a far lower percentage increase in its actual levy increase than the 3.93 percent being proposed.*

What Portion of the Levy Request is Borne by Existing Taxpayers and What is New Construction?

It is important to note that 1.63 percent of the 3.93 percent increase in the Tax Levy is a direct result of the addition of projected New Property EAV, which does not contribute any additional tax increase to the current taxpayers that comprise the base EAV property pool for the prior year. The existing EAV property tax pool will only increase a maximum of 2.30 percent as allowed by the PTELL law.

What Happens if the Levy is Set Too Low?

The risk the District runs is very severe, because it is not a one-time expense. Rather, the impact of just a single year of foregoing what is available to the District under the tax cap actually *compounds* over time:

- We lose the money foregone in the first year.
- We can never “catch up” in a future year by asking for a greater amount, because each annual increase is limited by PTELL.
- The impact of the loss compounds significantly in *every* future year. Each year's limiting rate formula under PTELL begins with the prior year's actual tax extension. Therefore, we continue to increase according to the formula, but we are beginning from a lower base.
- Once lost, these critical funds that are rightfully the District's can never be accessed again.
- The financial projections assume -- as directed by the Board -- that revenues will grow each year at the full amount legally available to the District.

As confusing as this process may seem due to the timing of when necessary information becomes available in Cook County, the bottom line is that it is the District's fiscal responsibility to recommend a levy at a high enough rate to ensure that all funds legally permissible -- including new property EAV -- are obtained, knowing that the PTELL will ultimately adjust that request to what is allowed by law.

Impact of Tax Levy on Financial Projections

The Five-Year Financial Projections are also included within Attachment 2 showing the recommended levy request for 2020 and levy assumptions for future years. The projections have been updated to reflect the proposed tax levy and an adjustment to the New Property. This

number is unknown in Cook County until late spring of the following year. Administration continues to use a 10-year average of New Property for the Tax Levy. This eliminates using figures from the late 2000s that reflected very large new property growth. The projections will be updated again in February 2021 when the staffing plan for the 2021-22 school year is presented.

Tax Rate Calculation

The tax rate is directly related to the Equalized Assessed Valuation (EAV) in the District. If total EAV decreases, much like it did in 2018, 2015 and years prior to 2014, the tax rates for taxpayers naturally go up because there is less EAV to spread the costs over. If the EAV increases, the tax rates naturally drop – there is more EAV to spread the costs over. This is why when a homeowner’s house value drops, their tax bill does not necessarily follow suit. It is dependent on the District’s total EAV, not the value of a particular property.

Why is the Tax Levy So Critical?

Local property revenues are the most significant portion of our budget -- about 85 percent of our Operating Fund revenues are from local property taxes.

The ability to agree to and meet the District’s financial commitments is in large part based on having current and future property tax revenues available to pay for them. If property tax revenues are not available, financial commitments cannot be met. Keep in mind that salaries and benefits comprise about 79 percent of Operating Fund expenditures, and are generally determined by long-term collectively bargained agreements or specific employee agreements. Once the bargaining process is completed, the costs are known and not subject to adjustment. Adjustments can only be made at the time of bargaining and before agreements are signed. The federal and state governments also mandate several operational costs for public schools that they do not fund; these also represent fixed financial commitments. In addition, the District must maintain learning environments for students and staff while protecting the community’s investment in these important neighborhood assets. Summer 2020 construction costs were covered by Operating Fund Balance in the Education Fund and the Operations and Maintenance Fund.

Accordingly, the administration recommends that the Board seek all property tax revenues that are statutorily available in 2020.

Cook County’s Loss & Cost Factor and Potential Abatement of Debt Service Levy

Board Policy 4:25 - Loss & Cost allows for the reduction of the Loss & Cost Factor in the Debt Service Fund. The Debt Service levy Loss & Cost for this year is \$17,510, representing 5 percent of the Debt Service levy \$350,200. Using funds in the Debt Service Fund to cover potential Lost & Cost, reduces the amount of funds available in the Debt Service Fund to be used as part of the financing for the issuance of future Working Cash Bonds.

Administration will be sharing with the Board information on the resolution used to abate a Debt Service Levy at the Board meeting. The District has extra funds in the Debt Service Fund that can be used to make bond payments eliminating the need for a Debt Service Levy. Elizabeth Hennessey of Raymond James has calculated the savings on a \$400K home would be approximately \$72. This will be the final payment on any outstanding bonds in the District. The only remaining debt service will be the Debt Certificates being paid out of the Operations & Maintenance Fund which were issued for construction. The Board has until February 28, 2021 to approve the abatement resolution.

ADOPTION OF RESOLUTION #1253 OF 2020 PROPOSED TENTATIVE TAX LEVY
Per Attached

ACTION ITEM 20-10-1

I move that the Board of Education of Community Consolidated School District No. 64 approve the 2020 Tax Levy Estimate, establishment of the Date and Time of the Truth-in-Taxation hearing for November 12, 2020 at 6:45 p.m., and Publication of Notice of Truth-in-Taxation hearing.

Moved by: _____ Seconded by _____

AYES:

NAYES:

PRESENT:

ABSENT:

10/8/2020

RESOLUTION #1253 DETERMINING THE ESTIMATED
TAX LEVY FOR THE YEAR 2020 AND SCHEDULING
A PUBLIC HEARING THEREON

WHEREAS, the Truth in Taxation Law requires a taxing district to determine the estimated amounts of taxes necessary to be levied for the year not less than 20 days prior to the official adoption of the aggregate tax levy of the district; and

WHEREAS, said statute further requires a taxing district to give public notice and to hold a public hearing on the district's intent to adopt an aggregate tax levy if the estimated amounts necessary to be levied exceed 105% of the aggregate amount of property taxes extended, including any amount abated prior to such extension, upon the levy of the preceding year; and

WHEREAS, the 2020 proposed tentative aggregate property levy is not more than 105% of the prior year's extension; a Truth In Taxation Hearing is not required but recommended.

WHEREAS, it is hereby determined that the estimated amounts of money necessary to be raised by taxation for the year 2020 upon the taxable property of the district are as follows:

Educational Purposes:	\$59,000,000
Operations & Maintenance Purposes:	5,500,000
Transportation Purposes:	1,500,000
Illinois Municipal Retirement Fund Purposes:	400,000
Social Security/Medicare Purposes:	1,200,000
Tort Immunity Purposes:	300,000
Special Education Purposes:	5,000,000
Working Cash Purposes:	<u>600,000</u>
Total	\$73,450,000

; and

WHEREAS, the *Truth in Taxation Law* requires that all taxing districts in the State of Illinois provide data in the Notice concerning the levies made for debt service made pursuant to statute, referendum, resolution or agreement to retire principal or pay interest on bonds, notes, and debentures or other financial instruments which evidence indebtedness; and

WHEREAS, the aggregate amount of property taxes extended for debt services purposes for 2019 was \$1,981,685 and it is hereby determined that the estimated amount of taxes to be levied for bond and interest purposes for 2020 is \$350,200.

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of Community Consolidated School District No. 64, County of Cook and State of Illinois, as follows:

Section 1: The aggregate amount of taxes estimated to be levied in the “capped” funds for the year 2020, is \$73,450,000.

Section 2: The aggregate amount of taxes estimated to be levied for debt service for the year 2020 is \$350,200.

Section 3: The aggregate amount of taxes estimated to be levied for the year 2020, is \$73,800,200.

Section 4: Public notice shall be given in the Park Ridge Advocate and the Niles Spectator, being newspapers of general circulation in said district, and a public hearing shall be held, all in the manner and time prescribed in said notice, which notice shall be published not more than 14 days nor less than 7 days prior to said hearing, and shall not be less than 1/8 page in size, with no smaller than twelve (12) point, enclosed in a black border not less than 1/4 inch wide, and such notice shall not be placed in that portion of the newspapers where legal notices and classified advertisements appears, and shall be in substantially the following form:

This resolution shall be in full force and effect forthwith upon its passage.

Rick Biagi, Board President
Board of Education
Community Consolidated School
District No. 64
Cook County, Illinois

Carol Sales, Board Secretary

ADOPTED this 8th day of October 2020.

**NOTICE OF PROPOSED PROPERTY TAX INCREASE FOR
COMMUNITY CONSOLIDATED SCHOOL DISTRICT 64**

- I.** A public hearing to approve a proposed property tax levy increase for Community Consolidated School District No. 64, Cook County, Illinois, for 2020 will be held on November 12, 2020 at 6:45 p.m. at Roosevelt Elementary School, 1001 Fairview Avenue, Park Ridge, IL 60068. Any person desiring to appear at the public hearing and present testimony to the taxing district may contact Luann Kolstad, Chief School Business Official, 164 S. Prospect Avenue, Park Ridge IL, (847) 318-4324.

- II.** The corporate and special purpose property taxes extended or abated for 2019 were \$ 68,847,718.

The proposed corporate and special purpose property taxes to be levied for 2020 are \$ 73,450,000. This represents a 3.93% increase over the previous year.

- III.** The property taxes extended for debt service and public building commission leases for 2019 were \$ 1,981,685.

The estimated property taxes to be levied for debt service and public building commission leases for 2020 are \$ 350,200. This represents a -82.33% decrease from the previous year.

- IV.** The total property taxes extended or abated for 2019 were \$ 70,829,403.

The estimated total property taxes to be levied for 2020 are \$ 73,800,200 This represents a 4.19% increase over the previous year.

Park Ridge - Niles Community Consolidated School District 64
Tax Levy Projection: EAV Estimation

Total Equalized Assessed Valuation

Year		Residential	% Change EAV	New Construction	% Change New Growth	
2023	EST	\$ 2,061,415,120	2.00%	\$ 9,083,938	0.00%	
2022	EST	\$ 2,020,995,216	2.00%	\$ 9,083,938	0.00%	
2021	EST	\$ 1,981,367,859	2.00%	\$ 9,083,938	0.00%	
2020	EST	\$ 1,942,517,509	2.00%	\$ 9,083,938	-35.79%	10 Yr Avg.
2019	Actual	\$ 1,904,428,930	16.87%	\$ 14,146,443	10.04%	Reassessment
2018	Actual	\$ 1,629,588,809	-2.68%	\$ 12,855,569	-5.62%	
2017	Actual	\$ 1,674,475,741	2.19%	\$ 13,621,222	13.80%	
2016	Actual	\$ 1,638,658,393	19.45%	\$ 11,969,943	79.93%	Reassessment
2015	Actual	\$ 1,371,795,137	-3.00%	\$ 6,652,708	0.23%	
2014	Actual	\$ 1,414,256,518	1.06%	\$ 6,637,442	21.74%	
2013	Actual	\$ 1,399,438,847	-17.93%	\$ 5,451,990	61.50%	Reassessment
2012	Actual	\$ 1,705,216,205	-7.48%	\$ 3,375,835	-40.99%	
2011	Actual	\$ 1,843,115,448	-8.59%	\$ 5,721,156	-45.03%	
2010	Actual	\$ 2,016,342,297	-4.95%	\$ 10,407,071	-32.69%	Reassessment
2009	Actual	\$ 2,121,453,047	7.75%	\$ 15,461,652	-35.00%	
2008	Actual	\$ 1,968,799,003	18.48%	\$ 23,786,571	-34.00%	
2007	Actual	\$ 1,661,682,786	4.22%	\$ 36,041,543	30.76%	
2006	Actual	\$ 1,594,439,099		\$ 27,562,834		

Park Ridge - Niles Community Consolidated School District 64
Tax Levy Projection: Assumptions

Actuals:

a) 2019 Operating Tax Rate	3.6151
b) 2019 Operating Tax Extension	\$ 68,847,718
c) 2019 EAV	\$ 1,904,428,930
d) 2019 New Construction	\$ 14,146,443

Assumptions:

2020 EAV - Increase	2.00%	\$ 1,942,517,509
New Construction Estimate	-35.79%	\$ 9,083,938
Consumer Price Index (CPI-2019)		102.3%
2021 EAV - Increase	2.00%	\$ 1,981,367,859
New Construction Estimate	0.00%	\$ 9,083,938
Consumer Price Index (CPI-2019)		102.0%
2022 EAV - Increase	2.00%	\$ 2,020,995,216
New Construction Estimate	0.00%	\$ 9,083,938
Consumer Price Index (CPI-2019)		102.0%
2023 EAV - Increase	2.00%	\$ 2,061,415,120
New Construction Estimate	0.00%	\$ 9,083,938
		1.02%

Est.	2020	Maximum Rate (Capped)
Education	2.8981	N/A
Special Education	0.2574	0.4000
Operations & Maintenance	0.2831	0.5500
Transportation	0.0772	N/A
IMRF	0.0206	N/A
Social Security	0.0618	N/A
Liability Insurance	0.0154	N/A
Working Cash	0.0283	0.0500
Total Operating Rate	3.6420	
School Bonds	0.0180	
Total Tax Rate	3.6601	

Park Ridge - Niles Community Consolidated School District 64
Tax Levy Projection: 2020 EST

<u>2020 Tax Levy</u> <u>Rcvd Spring 2021, Fall 2021</u>	<u>Levy Estimate</u> <u>9/30/20</u>
2019 Extension	\$ 68,833,013
X 2019 CPI	1.0230
New Extension	\$ 70,416,172
2020 EAV	\$ 1,942,517,509
Less: New Construction	\$ 9,083,938
Adjusted EAV	\$ 1,933,433,571
Adjusted Extension Base	\$ 70,416,172
Divided by Adjusted EAV	\$ 1,933,433,571
Limited Rate	3.642
2020 EAV	<u>\$ 1,942,517,509</u>
Total Estimated Extension for 2020	<u>\$ 70,747,012</u>

<u>Estimated Tax Rate</u>	<u>2019</u>	<u>2019 Extension</u>	<u>2020</u>	<u>2020 Extension</u>	<u>2020 Net Change</u>	<u>2020 Levy Request</u>	<u>2020 Net Change Request</u>
Education	2.7876	\$ 53,088,718	2.8981	\$ 56,297,012	79.18%	\$ 3,208,294	\$ 59,000,000 \$ 2,702,988
Operations & Maintenance	0.3515	\$ 6,695,000	0.2831	\$ 5,500,000	7.74%	\$ (1,195,000)	\$ 5,500,000 \$ -
Transportation	0.0541	\$ 1,030,000	0.0772	\$ 1,500,000	2.11%	\$ 470,000	\$ 1,500,000 \$ -
IMRF	0.0459	\$ 875,000	0.0206	\$ 400,000	0.56%	\$ (475,000)	\$ 400,000 \$ -
Social Security	0.0541	\$ 1,030,000	0.0618	\$ 1,200,000	1.69%	\$ 170,000	\$ 1,200,000 \$ -
Liability Insurance	0.0216	\$ 412,000	0.0154	\$ 300,000	0.42%	\$ (112,000)	\$ 300,000 \$ -
Special Education	0.2704	\$ 5,150,000	0.2574	\$ 5,000,000	7.03%	\$ (150,000)	\$ 5,000,000 \$ -
Working Cash	0.0298	\$ 567,000	0.0283	\$ 550,000	0.77%	\$ (17,000)	\$ 550,000 \$ -
Total Operating Rate	3.6151	\$ 68,847,718	3.6420	\$ 70,747,012		\$ 1,899,294	\$ 73,450,000 \$ 2,702,988
						2.76%	
Bond & Interest	0.1041	\$ 1,981,685	0.0180	\$ 350,200	-82.33%		350,200 3.93%
	<u>3.7192</u>	<u>\$ 70,829,403</u>	<u>3.6601</u>	<u>\$ 71,097,212</u>			<u>\$ 73,800,200</u> Total Levy
							4.19%

	<u>Mar-21</u>	<u>Jul-21</u>
Education Fund	\$ 30,846,724	\$ 25,450,288
Operations & Maintenance Fund	\$ 3,013,605	\$ 2,486,395
Transportation Fund	\$ 821,892	\$ 678,108
IMRF Fund	\$ 219,171	\$ 180,829
Social Security Fund	\$ 657,514	\$ 542,486
Liability Insurance Fund	\$ 164,378	\$ 135,622
Bond & Interest Fund	\$ (32,071,903)	\$ 32,422,103
Special Education	\$ 2,750,000	\$ 2,250,000
Working Cash	\$ 302,500	\$ 247,500
Total 2020 Levy to be Received in March 2021 (55% of 2019 Tax	\$ 6,703,882	\$ 64,393,330

To: Board of Education
Dr. Eric Olson, Superintendent
From: Luann Kolstad, Chief School Business Official
Ron DeGeorge, Director of Facility Management
Rick Petricek, Lead Architect, Studio GC
Date: October 8, 2020
Subject: Discussion of Summer 2020 Construction Projects

The administration's construction update last October contained a concise list of the major projects that the District has accomplished since we came to the District in July 2015. The first year was spent digesting the Master Facility Plan from FGM Architects, and developing projects for summer 2016. The list of completed major projects will continue to be on this memo every year. It keeps both the Board and the community informed and up-to-date on what has been accomplished and what is to come.

Summer 2020 marked the fifth and final year of our current Master Facility Plan. We as a District have accomplished our promise to keep our schools, safe, warm and dry along with a lot of other projects that needed to be completed in our buildings including the recent addition to Washington school during summer 2020.

As with a home, the school buildings require constant maintenance and at times major renovations. The administration uses School Dude which is a computerized maintenance management system (CMMS) to schedule all maintenance from minor maintenance projects to our preventative maintenance program. Our maintenance department and head custodians use this program on a daily basis. This has allowed administration to set up a system that was requested by the Board to make sure that we are properly maintaining our equipment to achieve the longest useful life. Major systems that are tracked on School Dude are:

- Preventative maintenance on all heating, ventilating and cooling systems in the District.
- Semi-annual roof inspections and minor repairs are done on all District facilities to maintain the integrity of the roof systems.
- Tuck pointing is evaluated every summer with minor tuckpointing occurring throughout the District. Major tuck pointing projects are included when we do other projects within a building.
- Parking lots are on a program for seal coating and striping to extend the life of our parking lots.
- Annual boiler inspections and maintenance are done prior to heating season and to meet insurance requirements.

As the District looks forward, administration has been working with Studio GC to develop the roadmap for the next set of construction projects. This information will be shared with the Board in the early spring of 2021. This roadmap will not only include information on needed work, but will also contain valuable information on future replacement dates for items such as roofs so that the Board can financially plan for these projects going forward.

Below is a high-level look at what the District has accomplished:

Summer 2016	
Washington School Office Renovation and Secure Vestibule	\$ 992,256
Roofing Projects at ESC, Carpenter, Lincoln, Washington & Roosevelt	\$ 2,242,230
Other Projects throughout District	\$ 971,942
Window Replacement @ Lincoln and replacement of windows in Roosevelt's gymnasium	\$ 1,430,200
Asbestos Abatement	\$ 28,750
FGM Architects	\$ 933,097
Nicholas & Associates (Construction Management)	\$ 488,711
United Analytical - Asbestos Services	\$ 38,916
Total Summer 2016	\$ 7,126,102
Summer 2017	
Windows @ Field	\$ 805,524
Roofing Projects @ Lincoln and Roosevelt	\$ 552,000
Lincoln LRC, Office Renovation, Secure Vestibule and Door replacements	\$ 1,165,223
Lincoln Tuckpointing	\$ 320,235
Asbestos Abatement	\$ 226,510
Lincoln Plumbing & Water Piping	\$ 409,000
Kitchen Remodeling @ Elementary Schools	\$ 138,723
Flooring Projects @ Lincoln, Franklin LRC and Field LRC	\$ 235,665
Studio GC Architects (Architect 7.5%, Construction Management 2%)	\$ 351,942
United Analytical - Asbestos Services	\$ 59,768
Total Summer 2017	\$ 4,264,590
Summer 2018	
Lincoln & Franklin Tuckpointing	\$ 175,000
Roofing Projects @ Emerson & Franklin	\$ 1,698,000
Roosevelt Office Renovation, Secure Vestibule, LRC and HLS Projects	\$ 1,472,723
Roosevelt Plumbing Replacement	\$ 261,623
Site Detention, Drainage & Asphalt Replacement @ Emerson, Jefferson and Washington Playlot	\$ 1,410,292
Lincoln Mechanical Piping	\$ 168,000
Roosevelt Flooring	\$ 402,500
Asbestos Abatement	\$ 219,700
Carpenter HVAC Replacement Zones 2 & 3	\$ 1,289,923
Carpenter Flooring Zones 2 & 3	\$ 215,000
Emerson School Classroom Addition & Additional Lockers	\$ 273,723
Flooring Emerson LRC	\$ 27,500
Studio GC Architects (Architect 7.5%, Construction Management 2%)	\$ 695,793
United Analytical - Asbestos Services	\$ 96,542

Total Summer 2018	\$ 8,406,319
Summer 2019	
Carpenter Office Renovation, Secure Vestibule & HLS Projects	\$ 792,723
Franklin Office Renovation/Relocation, Secure Vestibule & HLS Projects	\$ 1,341,723
Flooring @ Carpenter & Franklin	\$ 349,650
Plumbing Replacement @ Carpenter School	\$ 408,830
HVAC Lincoln LRC & Cafeteria	\$ 397,700
Field MPR, Office Reconfiguration & Secure Vestibule	\$ 2,960,000
Field Flooring	\$ 346,350
Lincoln HLS Classroom/Corridor Renovation, Intercom Replacement & ADA Restroom	\$ 521,326
Infill of Washington Auditorium	\$ 102,000
Asbestos Abatement	\$ 300,988
Studio GC Architects (Architect 7.5%, Construction Management 2%) Summer 2020 Moved	\$ 685,929
United Analytical - Asbestos Services	\$ 153,940
Total Summer 2019	\$ 8,361,159
Summer 2020	
Washington Addition & Classroom Reconfigurations	\$ 4,922,723
Washington Flooring	\$ 417,390
Asbestos Abatement	\$ 132,140
Studio GC Architects (Architect 7.5%, Construction Management 2%)	\$ 507,311
United Analytical - Asbestos Services	\$ 74,736
Total Summer 2020	\$ 6,054,300
Total Construction Costs	\$ 34,302,470

In addition to these projects, many smaller projects have been completed in-house utilizing our highly skilled maintenance department.

The District has accomplished safe, warm and dry conditions at many of our facilities over the past five years. However, some major questions remain that must be answered before future plans are adopted: future of the ESC Building, Full-Day Kindergarten, Jefferson School, potential overcrowding and need for additions at other District schools. Tied to these construction projects is the method in which they will be paid for.

First Reading of Policies from PRESS 105

Policy	Issue	Title	District Policy Committee 09/01/2020 Change/No Change	Board Policy Committee 09/15/20 Change/No Change	Board Meeting 10/08/20 Change/No Change
2:260	105	Uniform Grievance Procedure	N/C	N/C	
2:265	105	NEW - Title IX Sexual Harassment Grievance Procedure	N/C	N/C	
5:10	105	Equal Employment Opportunity & Minority Recruitment	N/C	N/C	
5:20	105	Workplace Harassment Prohibited	N/C	N/C	
5:100	105	Staff Development Program	N/C	N/C	
5:200	105	Terms & Conditions of Employment & Dismissal	N/C	N/C	
5:220	105	Substitute Teachers	N/C	N/C	
5:330	105	Sick, Days, Vacation, Holidays, & Leaves	Retain current policy which aligns w/collective bargaining agreement	Retain current policy which aligns w/collective bargaining agreement	
7:10	105	Equal Educational Opportunities	N/C	N/C	
7:20	105	Harassment of Students Prohibited	N/C	N/C	
7:180	105	Prevention of and Response to Bullying, Intimidation, & Harassment	N/C	N/C	
7:185	105	Teen Dating Violence Prohibited	N/C	N/C	

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DRAFT

School Board

Uniform Grievance Procedure 1

A student, parent/guardian, employee, or community member should notify any District Complaint Manager if he or she believes that the School Board, its employees, or its agents have violated his or her rights guaranteed by the State or federal Constitution, State or federal statute, or Board policy², or have a complaint regarding any one of the following: ³

1. Title II of the Americans with Disabilities Act, [42 U.S.C. §12101 et seq.](#) ⁴
2. Title IX of the Education Amendments of 1972, [20 U.S.C. §1681 et seq.](#), excluding Title IX sexual harassment complaints governed by policy 2:265, Title IX Sexual Harassment Grievance Procedure

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law requires this subject matter be covered by policy and controls this policy’s content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative’s consent. This policy [and its companion policy 2:265, Title IX Sexual Harassment Grievance Procedure, are-is](#) in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

A grievance procedure is required by many civil rights acts and implementing regulations, including those listed. For the sake of consistency and ease of administration, this policy consolidates all board grievance procedures, [excluding Title IX sexual harassment complaints \(see sample policy 2:265, Title IX Sexual Harassment Grievance Procedure\)](#) into one policy, except those contained in collective bargaining agreements. See the cross references for the policies referring to this uniform grievance procedure policy.

² Including the phrase “guaranteed by the State or federal Constitution, State or federal statute, or Board policy” broadens the scope of this policy beyond the items listed. Consult the board attorney regarding whether to retain this phrase and/or to otherwise limit the scope of this policy.

³ The Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400 [et seq.](#)) is not included in the list of statutes that may serve as the basis of a grievance, and attorneys disagree whether it should be. Many believe that IDEA provides the exclusive remedy; others believe that including IDEA allows parents an opportunity to get their position before the board. Unique and specific complaint resolution mechanisms are expressly provided under IDEA, Article 14 of the School Code, and their respective implementing regulations. These mechanisms follow: (1) IDEA at 20 U.S.C. §1415 (procedural safeguards-mediation and due process); (2) IDEA regulations at 34 C.F.R. §§300.151-300.153 (state complaints), 300.506 (mediation), and 300.507 [et seq.](#) (due process); (3) School Code at §§14/8.02a (mediation and due process) and 14/8.02b (expedited due process); and (4) special education regulations at 23 Ill.Admin.Code §§226.560 (Mediation), 226.570 (State Complaint Procedures), and Subpart G (due process). A board that would like to include IDEA should consult the board attorney.

⁴ The Americans with Disabilities Act Amendments Act (ADAAA) (Pub. L. 110-325), made significant changes to the Americans with Disabilities Act’s definition of disability by broadening the scope of coverage. The ADAAA also overturned a series of U.S. Supreme Court decisions that interpreted the Americans with Disabilities Act of 1990 in a way that made it difficult to prove that impairments were a disability. The U.S. Equal Employment Opportunity Commission’s (EEOC) regulations, 29 C.F.R. Part 1630, are at: www.eeoc.gov/laws/types/disability_regulations.cfm.

Boards should consult with their attorneys regarding how the ADAAA and its implementing regulations impact their districts.

Title II of the ADA of 1990 also includes website accessibility. Addressing website accessibility is complicated. Many entities addressing website accessibility use *Web Content Accessibility Guidelines* (WCAG) 2.0, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. WCAG 2.0 is the standard the U.S. Dept. of Justice referenced in its recent Title II rulemaking; however, it is not adopted as the formal legal standard for public accommodation websites. While it is not adopted as the formal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements. See www.w3.org/TR/WCAG20/.

3. Section 504 of the Rehabilitation Act of 1973, [29 U.S.C. §791 et seq.](#)⁵
4. Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.
5. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.
6. Sexual harassment [prohibited by the](#) (State Officials and Employees Ethics Act⁶, [5 ILCS 430/70-5\(a\)](#); Illinois Human Rights Act, [775 ILCS 5/](#); and Title VII of the Civil Rights Act of 1964, [42 U.S.C. §2000e et seq.](#) ~~and Title IX of the Education Amendments of 1972~~) ([Title IX](#)

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⁵ See f/n 4's discussion of website accessibility above. To avoid allegations that a district violated Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA of 1990, many attorneys suggest that school districts' websites meet the WCAG 2.0 guidelines. But see the discussion in f/n 2 of policy 8:70, *Accommodating Individuals with Disabilities*.

⁶ 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221, requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment that contains certain prescribed elements. See [sample](#) policy 5:20, *Workplace Harassment Prohibited*, at f/n 3 and subhead **Complaints of Sexual Harassment Made Against Board Members by Elected Officials** in [sample](#) policy 2:105, *Ethics and Gift Ban*, for further detail. Complaints of sexual harassment made against board members by fellow board members or other elected officials of governmental units must undergo an *independent review*, which is not a term defined in the statute. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20. School districts are also required to create, maintain, and implement an age-appropriate sexual harassment policy. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418, ~~eff. 1-1-20~~. See [sample](#) policy 7:20, *Harassment of Students Prohibited*, and its f/n ~~78~~ for further information.

A new publication law, 50 ILCS 205/3c, added by P.A. 100-1040, requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was "found to have engaged in sexual harassment or sexual discrimination, as defined by the Ill. Human Rights Act or Title VII of the Civil Rights Act of 1964." Consult the board attorney about the word *found*. It raises many practical application questions, e.g., when does the word *found* trigger a board's compliance responsibility pursuant to this law. Such questions include, but are not limited to:

1. Must a school board make a *finding* to trigger this requirement? If the severance agreement is entered into post-termination, a record of board *findings* rarely exists.
2. Are charges for termination *findings*? Often superintendents submit charges for termination, but these are not technically *findings*.
3. Are charges based on a complaint manager's report and determination(s) *findings* under the law when a board still has the ability to review and reject the complaint manager's determination(s)?

Next, contrast the above publication law with the Government Severance Pay Act (GSPA), 5 ILCS 415/10(a)(2), added by P.A. 100-895. GSPA prohibits an employee of a school district with contract provisions for severance pay from receiving any severance if he or she is fired for *misconduct* by the board. GSPA defines *misconduct* to include sexual harassment and/or discrimination. *Id.* at 415/5.

Consult the board attorney about how to reconcile whether sexual harassment and/or sexual discrimination is misconduct for which a severance would be prohibited under the GSPA, and therefore, not available to be published under 50 ILCS 205/3c, added by P.A. 100-1040. And for further discussion and other applicable transparency laws that apply to this issue, see also f/n ~~15~~ in policy 5:20, *Workplace Harassment Prohibited*.

[sexual harassment complaints are addressed under policy 2:265, Title IX Sexual Harassment Grievance Procedure](#)⁷

7. Breastfeeding accommodations for students, 105 ILCS 5/10-20.60⁸
8. Bullying, 105 ILCS 5/27-23.7⁹
9. Misuse of funds received for services to improve educational opportunities for educationally disadvantaged or deprived children¹⁰
10. Curriculum, instructional materials, and/or programs
11. Victims' Economic Security and Safety Act, 820 ILCS 180/
12. Illinois Equal Pay Act of 2003, 820 ILCS 112/
13. Provision of services to homeless students
14. Illinois Whistleblower Act, 740 ILCS 174/¹¹

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁷ Consult the board attorney to ensure the district's nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon bullying and/or sexual violence under Title IX's sexual harassment umbrella. In September 2017, the U.S. Dept. of Education (DOE) withdrew its sexual violence Title IX guidance issued in 2011 and 2014, which mandated procedures for processing student on student sexual conduct, including using a preponderance of the evidence standard for student discipline. The DOE has issued interim guidance until new rulemaking is promulgated: *Q&A on Campus Sexual Misconduct (OCR September 2017)* at: www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term= An earlier guidance document also highlights appropriate responses to sexual violence under Title IX. See *Revised Sexual Harassment Guidance: Harassment of Student by School Employees, Other Students, or Third Parties, January 2001* at: www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf. Consult the board attorney regarding proper filing and storage of these investigation documents, including whether certain student-related investigation documents are *sole possession records*, a Family Policy Compliance Office (FPCO)-created an exemption to the Family Education Rights Privacy Act (FERPA) (20 U.S.C. §1232g). See *Letter to Ruscio*, 115 LRP 18601 (FPCO 12-17-14).

⁸ 105 ILCS 5/10-20.60, added by P.A. 100-29, requires schools to implement the Ill. sex equity grievance procedures when processing student complaints about breastfeeding accommodations. Complainants must be informed that the board's decision may be appealed to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. **Note:** Certain claims brought under Sec. 10-20.60 may also be covered by the anti-discrimination protections of Title IX; consult the board attorney for further advice. Guidance from U.S. Dept. of Education on Title IX requirements for pregnant and parenting students (June 2013) is available at: www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf.

⁹ All districts must have a policy on bullying. 105 ILCS 5/27-23.7. See [sample](#) policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The inclusion of *bullying* in the list of topics that may serve as the basis of a grievance furthers the obligation to communicate this policy to students and their parents/guardians.

¹⁰ Parents/guardians of educationally disadvantaged children may sue a district for misuse of funds allocated by State law for the benefit of such children. *Noyola v. Bd. of Educ.*, 171 Ill.2d 121 (Ill. 1997) (affirming the appellate court's conclusion in *Noyola v. Bd. of Educ.*, 284 Ill.App.3d 128 (1st Dist. 1996) that parents/guardians may pursue a claim to enforce the requirements of the School Code but holding that the proper action for enforcement is by means of mandamus not an implied right of action).

¹¹ The Ill. Whistleblower Act (740 ILCS 174/) includes school districts in the definition of employer. It protects employees from employer retaliation for disclosing information to a government or law enforcement agency. Section 15 also contains language prohibiting employers from retaliating against employees who disclose information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation. The Ill. Whistleblower Reward and Protection Act (740 ILCS 174/) includes school districts in its definition of *State*. A strict interpretation of this language appears to allow school boards to collect civil penalties and costs against someone making a false claim. Before disciplining any employee, boards should thoroughly investigate the ramifications of these acts in consultation with their attorney and liability insurance carriers.

15. Misuse of genetic information ~~prohibited by the Illinois Genetic Information Privacy Act (GIPA), 410 ILCS 513/;~~ and Titles I and II of the Genetic Information Nondiscrimination Act (GINA), 42 U.S.C. §2000ff et seq. ¹²
16. Employee Credit Privacy Act, 820 ILCS 70/ ¹³

The Complaint Manager will first attempt to resolve complaints without resorting to this grievance procedure. If a formal complaint is filed under this policy, the Complaint Manager will address the complaint promptly and equitably. A student and/or parent/guardian filing a complaint under this policy may forego any informal suggestions and/or attempts to resolve it and may proceed directly to this grievance procedure. The Complaint Manager will not require a student or parent/guardian complaining of any form of harassment to attempt to resolve allegations directly with the accused (or the accused's parents/guardians); this includes mediation.

Right to Pursue Other Remedies Not Impaired

The right of a person to prompt and equitable¹⁴ resolution of a complaint filed under this policy shall not be impaired by the person's pursuit of other remedies, e.g., criminal complaints, civil actions, etc. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies and use of this grievance procedure does not extend any filing deadline related to the pursuit of other remedies. If a

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¹² The Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.) is a federal law. Title I addresses the use of genetic information pertaining to health insurance. Title II protects job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. GINA covers employers with 15 or more employees.

GINA broadly defines genetic information to include information about an individual's genetic tests, their family members, and, among other things, the manifestation of a disease or disorder in the individual or the individual's family members. Information about an individual's or family member's age or gender is excluded from genetic information. Its remedies mirror those available under a Title VII of the Civil Rights Act claim: back pay, reinstatement, attorneys' fees and compensatory and punitive damages. Retaliation against an individual who brings a claim under GINA is also prohibited. Federal regulations are available at 29 C.F.R. Part 1635, and background information on these regulations is available at: www.eeoc.gov/policy/docs/qanda_geneticinfo.html. An FAQ titled: *FAQs on the Genetic Information Nondiscrimination Act* is available at: www.dol.gov/agencies/ebsa/laws-and-regulations/laws/gina.

The Ill. Genetic Information Protection Act (GIPA) (410 ILCS 513/, amended by P.A. 100-396) also prohibits employers from making employment decisions on the basis of any employee's genetic testing information and from penalizing employees who do not want to disclose their genetic information as part of a workplace wellness program. GIPA includes the federal GINA's definition of genetic information and creates more stringent obligations on Ill. employers. While the federal GINA exempts small employers (those with less than 15 employees), Illinois' GIPA covers all employers, even those with one employee. GIPA also provides penalties for negligent and intentional mishandling of genetic information. Note that Title II of GINA does not preempt GIPA's greater protections to Illinois employees.

Before using any sort of genetic information, consult the board attorney for guidance regarding GINA's and GIPA's specific applications to the district and how these laws integrate with other related federal laws, such as the Family and Medical Leave Act (29 U.S.C. §2612 et seq.) and the ADA, and State laws governing time off for sickness and workers' compensation.

¹³ 820 ILCS 70/. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, when the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. A person who is injured by a violation of this Act may bring a civil action to obtain injunctive relief and/or damages. 820 ILCS 70/25. The court must award costs and reasonable attorneys' fees to a prevailing plaintiff.

¹⁴ The phrase "prompt and equitable resolution" comes from Title IX implementing regulation 34 C.F.R. §106.8(~~bc~~) which requires schools to "adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints" of sex discrimination.

person is pursuing another remedy subject to a complaint under this policy, the District will continue with a simultaneous investigation under this policy.

Deadlines

All deadlines under this policy may be extended by the Complaint Manager as he or she deems appropriate. As used in this policy, *school business days* means days on which the District's main office is open.

Filing a Complaint

A person (hereinafter Complainant) who wishes to avail him or herself of this grievance procedure may do so by filing a complaint with any District Complaint Manager. The Complainant shall not be required to file a complaint with a particular Complaint Manager and may request a Complaint Manager of the same gender.¹⁵ The Complaint Manager may request the Complainant to provide a written statement regarding the nature of the complaint or require a meeting with a student's parent(s)/guardian(s). The Complaint Manager shall assist the Complainant as needed.

For any complaint alleging bullying and/or cyberbullying of students, the Complaint Manager shall process and review the complaint according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy. For any complaint alleging sexual harassment or other violation of Board policy 5:20, *Workplace Harassment Prohibited*, the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy ~~2:260, Uniform Grievance Procedure~~.

Investigation Process

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf.¹⁶ The Complaint Manager shall ensure both parties have an equal opportunity to present evidence during an investigation. If the Complainant is a student under 18 years of age, the Complaint Manager will notify his or her parent(s)/guardian(s) that they may attend any investigatory meetings in which their child is involved. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law or this policy, (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

The identity of any student witnesses will not be disclosed except: (1) as required by law or any collective bargaining agreement, (2) as necessary to fully investigate the complaint, or (3) as authorized by the parent/guardian of the student witness, or by the student if the student is 18 years of age or older.

The Complaint Manager will inform, at regular intervals, the person(s) filing a complaint under this policy about the status of the investigation. Within 30 school business days ~~of~~after the date the complaint was filed, the Complaint Manager shall file a written report of his or her findings with the Superintendent. The Complaint Manager may request an extension of time.

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¹⁵ This is a best practice.

¹⁶ This policy gives complaint managers the flexibility to appoint another individual to conduct an investigation, which may be appropriate in cases where the neutrality or efficacy of the complaint manager is an issue, and/or where the district wishes to have the expertise and related attorney-client and work product privileges that an in-house or outside attorney may afford an investigation. Such alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals).

The Superintendent will keep the Board informed of all complaints.

If a complaint contains allegations involving the Superintendent or Board member(s), the written report shall be filed directly with the Board, which will make a decision in accordance with paragraph four of the following section of this policy.

Decision and Appeal

Within five school business days after receiving the Complaint Manager's report, the Superintendent shall mail his or her written decision to the Complainant and the accused by first class U.S. mail as well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard.¹⁷

Within 10 school business days after receiving the Superintendent's decision, the Complainant or the accused may appeal the decision to the Board by making a written request to the Complaint Manager. The Complaint Manager shall promptly forward all materials relative to the complaint and appeal to the Board.

Within 30 school business days, the Board shall affirm, reverse, or amend the Superintendent's decision or direct the Superintendent to gather additional information. Within five school business days ~~of~~after the Board's decision, the Superintendent shall inform the Complainant and the accused of the Board's action.

For complaints containing allegations involving the Superintendent or Board member(s), within 30 school business days after receiving the Complaint Manager's or outside investigator's report, the Board shall mail its written decision to the Complainant and the accused by first class U.S. mail as well as to the Complaint Manager.

This policy shall not be construed to create an independent right to a hearing before the Superintendent or Board. The failure to strictly follow the timelines in this grievance procedure shall not prejudice any party.¹⁸

Appointing a Nondiscrimination Coordinator and Complaint Managers¹⁹

The Superintendent shall appoint a Nondiscrimination Coordinator to manage the District's efforts to provide equal opportunity employment and educational opportunities and prohibit the harassment of

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¹⁷ *Preponderance of evidence* is a standard ~~used of proof~~ in civil cases. It means "the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." See *Black's Law Dictionary*, 911th ed. 20019.

¹⁸ The Ill. sex equity regulations require districts to have "specific timelines for completion of each step and rendering of a written decision, and shall provide for final appeal of grievance decisions made at the system level to the system's governing board." 23 Ill.Admin.Code §200.40(c)(1). To avoid arguments over these timelines, this sample policy provides that the failure to strictly follow the timelines does not prejudice any party. The grievance procedure is worthless if complaints are not thoroughly and promptly investigated.

¹⁹ Title IX regulations require districts to designate and authorize at least one employee to coordinate efforts to comply with Title IX and to refer to that employee as the Title IX Coordinator. 34 C.F.R. §106.8(a). Districts must identify the Title IX coordinator by name, office address, email address, and telephone number ~~of the person who is responsible for coordinating the district's compliance efforts~~. Id.

employees, students, and others. The Nondiscrimination Coordinator also serves as the District’s Title IX Coordinator. ²⁰

The Superintendent shall appoint at least one Complaint Manager to administer ~~the complaint process in~~ this policy. If possible, the Superintendent will appoint two Complaint Managers, one of each gender. The District’s Nondiscrimination Coordinator may be appointed as one of the Complaint Managers.

The Superintendent shall insert into this policy and keep current the names, office addresses, email addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers. ²¹

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

~~A district must prominently display its Title IX non-discrimination policies (this policy 2:260, *Uniform Grievance Procedure*, and sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*) and contact information for its Title IX coordinator(s) on its website, if any, and in each handbook made available to students, applicants for employment, parents/guardians, employees, and collective bargaining units. 34 C.F.R. §106.8(a) and (b). Notifications must state that nondiscrimination extends to employment, and that inquiries about the application of Title IX and its regulations may be referred to the district’s Title IX coordinator, to the U.S. Dept. of Education’s Assistant Secretary of Education, or both. 34 C.F.R. §106.8(b). See sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. OCR prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (1) a *Dear Colleague Letter on Title IX Coordinators*; (2) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (3) a *Title IX Resource Guide* that includes an overview of Title IX’s requirements with respect to several key issues. See .~~

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

²⁰ ~~The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete “The Nondiscrimination Coordinator also serves as the District’s Title IX Coordinator.” insert a hard return to create a new paragraph, and insert “The Superintendent shall appoint a Title IX Coordinator to coordinate the District’s efforts to comply with Title IX.” Then, list the Title IX and Nondiscrimination Coordinators’ names and contact information separately in this policy.~~

Best practice is that throughout the board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

²¹ The board may include the following option to address publication of such contact information:
“The Superintendent or designee shall ensure that students, parents/guardians, employees, and members of the community are informed of the contact information for the District’s Nondiscrimination Coordinator and Complaint Managers on an annual basis.”

Publicizing the contact information for the Nondiscrimination Coordinator and Complaint Managers through personnel handbooks, student handbooks, and/or on the district’s website is a best practice. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

Complaint Managers:

Name	Name
Address	Address
Email	Email
Telephone	Telephone

LEGAL REF.: Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.
Americans With Disabilities Act, 42 U.S.C. §12101 et seq.
Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.
Equal Pay Act, 29 U.S.C. §206(d).
Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.
Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.
McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.
Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.
Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.
Title IX of the Education Amendments, 20 U.S.C. §1681 et seq.; [34 C.F.R. Part 106](#)
State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).
105 ILCS 5/2-3.8, 5/3-10, 5/10-20.7a, 5/10-20.60, 5/10-22.5, 5/22-19, 5/24-4, 5/27-1, 5/27-23.7, and 45/1-15.
Illinois Genetic Information Privacy Act, 410 ILCS 513/.
Illinois Whistleblower Act, 740 ILCS 174/.
Illinois Human Rights Act, 775 ILCS 5/.
Victims' Economic Security and Safety Act, 820 ILCS 180/, 56 Ill.Admin.Code Part 280.
Equal Pay Act of 2003, 820 ILCS 112/.
Employee Credit Privacy Act, 820 ILCS 70/.
23 Ill.Admin.Code §§1.240 and 200.40.

CROSS REF.: 2:105 (Ethics and Gift Ban), [2:265 \(Title IX Sexual Harassment Grievance Procedure\)](#), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), [5:90 \(Abused and Neglected Child Reporting\)](#), 6:120 (Education of Children with Disabilities), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family Privacy Rights), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), [7:185 \(Teen Dating Violence Prohibited\)](#), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools), 8:70 (Accommodating Individuals with Disabilities), 8:95 (Parental Involvement), 8:110 (Public Suggestions and Concerns)

School Board

Title IX Sexual Harassment Grievance Procedure 1

Sexual harassment affects a student's ability to learn and an employee's ability to work. Providing an educational and workplace environment free from sexual harassment is an important District goal. The District does not discriminate on the basis of sex in any of its education programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106) concerning everyone in the District's education programs and activities, including applicants for employment, students, parents/guardians, employees, and third parties.

Title IX Sexual Harassment Prohibited

Sexual harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited. Any person, including a District employee or agent, or student, engages in Title IX Sexual Harassment whenever that person engages in conduct on the basis of an individual's sex that satisfies one or more of the following:²

1. A District employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;³ or

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¹ Title IX of the Education Amendments of 1972 (Title IX) (20 U.S.C. §1681 *et seq.*) requires this subject matter be covered by policy and controls this policy's content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy and its companion policy 2:260, *Uniform Grievance Procedure*, are in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

For the sake of consistency and ease of administration, this policy addresses only Title IX sexual harassment grievances, except those contained in collective bargaining agreements. See the cross references for the policies referring to this Title IX sexual harassment grievance procedure policy.

A district must have at least one policy explicitly stating it does not discriminate on the basis of sex in its education programs or activities under Title IX and its implementation regulations (34 C.F.R. Part 106). 34 C.F.R. §106.8(b)(1). Title IX jurisdiction is geographically limited to discrimination against a person in the United States. 34 C.F.R. §106.8(d). Though all complaints of sexual harassment may not constitute sexual harassment under Title IX, Title IX's reach is broad because an alleged complainant or alleged respondent may be *anyone* in the District's educational program or activity in the United States – including applicants for employment, students, parents/guardians, any employee, and third parties.

² 34 C.F.R. §106.30. The definition of *sexual harassment* in the policy and in Title IX includes *unwelcome* conduct. *Id.* However, case law does not always distinguish between *welcome* and *unwelcome* conduct. See Mary M. v. North Lawrence Community Sch. Corp., 131 F.3d 1220 (7th Cir. 1997) (8th grade student did not need to show that a school employee's sexual advances were *unwelcome* in order to prove sexual harassment).

³ 34 C.F.R. §106.30. This behavior is commonly called *quid pro quo* sexual harassment. See 85 Fed. Reg. 30036, f/n 94. By using the term *individual*, Title IX regulations do not limit *quid pro quo* sexual harassment to situations where the provision of an aid, benefit or service by an employee is conditioned on a current *student's* participation in unwelcome sexual conduct. By way of example, *quid pro quo* Title IX sexual harassment involving an employee and an individual other than a current student may be implicated when: an employee tells a former student she can only get a letter of recommendation if she participates in unwelcome sexual conduct; an employee selects a volunteer for a coveted field trip chaperone position if he participates in unwelcome sexual conduct; or a supervisory employee subjects a subordinate employee to unwelcome sexual conduct in exchange for a promotion.

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's educational program or activity; or
3. *Sexual assault* as defined in 20 U.S.C. §1092(f)(6)(A)(v), *dating violence* as defined in 34 U.S.C. §12291(a)(10), *domestic violence* as defined in 34 U.S.C. §12291(a)(8), or *stalking* as defined in 34 U.S.C. §12291(a)(30).⁴

Examples of sexual harassment include, but are not limited to, touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, spreading rumors related to a person's alleged sexual activities, rape, sexual battery, sexual abuse, and sexual coercion.

Definitions from 34 C.F.R. §106.30

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.⁵

Education program or activity includes locations, events, or circumstances where the District has substantial control over both the *Respondent* and the context in which alleged sexual harassment occurs.⁶

Formal Title IX Sexual Harassment Complaint means a document filed by a *Complainant* or signed by the Title IX Coordinator⁷ alleging sexual harassment against a *Respondent* and requesting that the District investigate the allegation.⁸

Respondent means an individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment.⁹

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the *Complainant* or the *Respondent* before or after the filing of a *Formal Title IX Sexual Harassment Complaint* or where no *Formal Title IX Sexual Harassment Complaint* has been filed.¹⁰

Title IX Sexual Harassment Prevention and Response

The Superintendent or designee will ensure that the District prevents and responds to allegations of Title IX Sexual Harassment as follows:

1. Ensures that the District's comprehensive health education program in Board policy 6:60, *Curriculum Content*, incorporates (a) age-appropriate sexual abuse and assault awareness and prevention programs in grades pre-K through 12,¹¹ and (b) age-appropriate education about

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⁴ See sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for these definitions and other definitions of italicized terms in this policy.

⁵ 34 C.F.R. §106.30.

⁶ 34 C.F.R. §106.44(a).

⁷ See f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*.

⁸ 34 C.F.R. §106.30.

⁹ *Id.*

¹⁰ *Id.* See sample administrative procedure 2:265-AP1, *Title IX Sexual Harassment Response*, for further discussion of supportive measures.

¹¹ Required by 105 ILCS 110/3 and 105 ILCS 5/10-23.13 (*Erin's Law*).

the warning signs, recognition, dangers, and prevention of teen dating violence in grades 7-12.¹² This includes incorporating student social and emotional development into the District’s educational program as required by State law and in alignment with Board policy 6:65, *Student Social and Emotional Development*.

2. Incorporates education and training for school staff¹³ as recommended by the Superintendent, Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. ¹⁴
3. Notifies applicants for employment,¹⁵ students, parents/guardians, employees, and collective bargaining units of this policy and contact information for the Title IX Coordinator by, at a minimum, prominently displaying them on the District’s website, if any, and in each handbook made available to such persons. ¹⁶

Making a Report

A person who wishes to make a report under this Title IX Sexual Harassment grievance procedure may make a report to the Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the person is comfortable speaking.¹⁷ A person who wishes to make a report may choose to report to a person of the same gender.

School employees shall respond to incidents of sexual harassment by promptly making or forwarding the report to the Title IX Coordinator. An employee who fails to promptly make or forward a report may be disciplined, up to and including discharge.

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¹² Required by *Id.* at 110/3.

¹³ For boards that insert optional paragraphs listing trainings in f/n 4 of policy 5:100, *Staff Development Program*, insert “pursuant to policy 5:100, *Staff Development Program*, and” after the word staff.

¹⁴ 105 ILCS 110/3. Detailed training requirements exist for Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. 34 C.F.R. §106.45(b)(1)(iii). Title IX rules “[leave districts] discretion to determine the kind of training to other employees that will best enable the [district], and its Title IX Coordinator, to meet Title IX obligations.” 85 Fed. Reg. 30114. Many attorneys agree the best practice is to train all district staff about the definition of sexual harassment, the scope of the district’s education program or activity, all relevant district policies and procedures, and the necessity to promptly forward all reports of sexual harassment to the Title IX coordinator. See sample procedure 2:265-AP1, *Title IX Sexual Harassment Response*.

¹⁵ Most school districts are not covered by Subpart C of Title IX, which “applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.” 34 C.F.R. §106.15(d). If your district is covered by Subpart C, amend this to state “applicants for admission or employment.”

¹⁶ 34 C.F.R. §106.8. See paragraph 2 of f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*. See also sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

¹⁷ Using “or any employee with whom the Complainant is comfortable speaking” ensures Title IX compliance because Title IX deems “any employee” of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment to have *actual knowledge*. Therefore, a report to any employee triggers a district’s duty to respond. 34 C.F.R. §106.30. This policy contains an item upon which collective bargaining may be required. Any policy that impacts wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

The Superintendent shall insert into this policy and keep current the name, office address, email address, and telephone number of the Title IX Coordinator. ¹⁸

Title IX Coordinator:

Name

Address

Email

Telephone

Processing and Reviewing a Report or Complaint

Upon receipt of a report, the Title IX Coordinator and/or designee will promptly contact the *Complainant* to: (1) discuss the availability of supportive measures, (2) consider the *Complainant's* wishes with respect to *supportive measures*, (3) inform the *Complainant* of the availability of *supportive measures* with or without the filing of a *Formal Title IX Sexual Harassment Complaint*, and (4) explain to the *Complainant* the process for filing a *Formal Title IX Sexual Harassment Complaint*.¹⁹

Further, the Title IX Coordinator will analyze the report to identify and determine whether there is another or an additional appropriate method(s) for processing and reviewing it.²⁰ For any report received, the Title IX Coordinator shall review Board policies 2:260, *Uniform Grievance Procedure*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 5:120, *Employee Ethics; Conduct; and Conflict of Interest*; ²¹ 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; 7:185, *Teen Dating Violence Prohibited*; and 7:190, *Student Behavior*, to determine if the allegations in the report require further action.

Reports of alleged sexual harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational program or activity that is productive, respectful, and free of sexual harassment.

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¹⁸ Title IX regulations require districts to designate and authorize at least one employee to coordinate its efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX coordinator by name, office address, email address, and telephone number. *Id.* A district's nondiscrimination coordinator often also serves as its Title IX coordinator. See sample policy 2:260, *Uniform Grievance Procedure*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

¹⁹ Required by 34 C.F.R. §106.44(a) and (b) regardless of whether a formal Title IX sexual harassment complaint is filed.

²⁰ See sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for a discussion of Title IX sexual harassment and non-Title IX sexual harassment. Consult the board attorney for further guidance.

²¹ See sample administrative procedure 5:120-AP2, *Employee Conduct Standards*.

Formal Title IX Sexual Harassment Complaint Grievance Process

When a *Formal Title IX Sexual Harassment Complaint* is filed, the Title IX Coordinator will investigate it or appoint a qualified person to undertake the investigation. ²²

The Superintendent or designee shall implement procedures to ensure that all *Formal Title IX Sexual Harassment Complaints* are processed and reviewed according to a Title IX grievance process that fully complies with 34 C.F.R. §106.45.²³ The District's grievance process shall, at a minimum: ²⁴

1. Treat *Complainants* and *Respondents* equitably by providing remedies to a *Complainant* where the *Respondent* is determined to be responsible for sexual harassment, and by following a grievance process that complies with 34 C.F.R. §106.45 before the imposition of any disciplinary sanctions or other actions against a *Respondent*.
2. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a *Complainant*, *Respondent*, or witness.
3. Require that any individual designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process:
 - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual *Complainant* or *Respondent*.
 - b. Receive training on the definition of sexual harassment, the scope of the District's *education program or activity*, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially. ²⁵

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²² This policy gives Title IX coordinators the flexibility to appoint another qualified individual to conduct an investigation. This may be appropriate when the neutrality or efficacy of the Title IX coordinator is an issue, and/or where the district wishes to have the expertise that an in-house or outside attorney may afford to an investigation. Alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals) and the board attorney. If a complaint involves the superintendent or other district-level administrator, alternative appointments are often made in consultation with the board and the board attorney.

²³ 34 C.F.R. §106.45(b). See sample administrative procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

²⁴ 34 C.F.R. §106.45(b)(1) lists the basic requirements for a grievance process. While live hearings are only required for postsecondary institutions, elementary and secondary schools may choose to offer them as part of their grievance process. **Consult the board attorney if the board wants the district to use a live hearing in its grievance process.**

If using a live hearing during the grievance process, amend #5 by inserting the following underscored text: "Require that any individual designated by the District as a decision-maker receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant."

²⁵ Aside from the general training requirements of 34 C.F.R. §106.45(b)(1)(iii), the DOE gives districts flexibility to determine certain training practices or techniques to best meet training requirements based upon their unique local conditions and resources within their educational community. 85 Fed. Reg. 30120. See also 85 Fed. Reg. 30084 (declining to specify that training of Title IX personnel must include implicit bias training, so long as training provides instruction on how to serve impartially and avoid prejudgment of the facts at issue, conflicts of interest, and bias, and that training materials avoid sex stereotypes).

4. Require that any individual designated by the District as an investigator receiving training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
5. Require that any individual designated by the District as a decision-maker receive training on issues of relevance of questions and evidence, including when questions and evidence about the *Complainant's* sexual predisposition or prior sexual behavior are not relevant.
6. Include a presumption that the *Respondent* is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
7. Include reasonably prompt timeframes for conclusion of the grievance process.
8. Describe the range of possible disciplinary sanctions and remedies the District may implement following any determination of responsibility.
9. Base all decisions upon the *preponderance of evidence* standard.²⁶
10. Include the procedures and permissible bases for the *Complainant* and *Respondent* to appeal.
11. Describe the range of *supportive measures* available to *Complainants* and *Respondents*.
12. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.²⁷

Enforcement

Any District employee who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any third party who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with

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²⁶ 34 C.F.R. §106.45(b)(1)(vii) requires the Title IX sexual harassment grievance process to state the standard of evidence it will use to determine responsibility of the respondent. The standard of evidence selected must be applied “consistently to formal complaints alleging Title IX sexual harassment regardless of whether the respondent is a student or an employee.” 85 Fed. Reg. 30373. This sample policy uses the *preponderance of the evidence* standard, not the *clear and convincing evidence* standard. *Preponderance of evidence* is a standard used in civil cases. It means “the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force.” See *Black’s Law Dictionary, 11th ed. 2019*. *Preponderance of the evidence* is the standard used in sample policy 2:260, *Uniform Grievance Procedure*. *Clear and convincing* is a higher standard, requiring more than *preponderance of the evidence* but less than proof beyond a reasonable doubt. It means “evidence indicating that the thing to be proved is highly probable or reasonably certain.” See *Black’s Law Dictionary, 11th ed. 2019*. **Consult the board attorney regarding the appropriate standard for the district, as well as implications if a different standard is used in this policy than in 2:260, *Uniform Grievance Procedure***. For boards that choose the *clear and convincing evidence* standard, delete “~~preponderance of~~” and insert “*clear and convincing*.” Ensure the same standard of evidence is used in 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

²⁷ Examples of legally-recognized privileges include attorney-client privilege, doctor-patient privilege, and spousal privilege. See 85 Fed. Reg. 30277.

student behavior policies.²⁸ Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action.

This policy does not increase or diminish the ability of the District or the parties to exercise any other rights under existing law.²⁹

Retaliation Prohibited³⁰

The District prohibits any form of retaliation against anyone who, in good faith, has made a report or complaint, assisted, or participated or refused to participate in any manner in a proceeding under this policy. Any person should report claims of retaliation using Board policy 2:260, *Uniform Grievance Procedure*.³¹

Any person who retaliates against others for reporting or complaining of violations of this policy or for participating in any manner under this policy will be subject to disciplinary action, up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct, and Conflict of Interest), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior)

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²⁸ See sample policies 7:190, *Student Behavior*, and 7:230, *Misconduct by Students with Disabilities*. See also sample policies 7:200, *Suspension Procedures*, and 7:210, *Expulsion Procedures*, for due process requirements when student suspension or expulsion is recommended following a determination of responsibility for Title IX sexual harassment.

²⁹ Examples of rights the district or parties may exercise ancillary to this Title IX sexual harassment grievance procedure include, but are not limited to: disciplinary processes for suspensions and expulsions of students under 105 ILCS 5/10-22.6; tenured teacher dismissal proceedings under 105 ILCS 5/24-12; any other pre-termination process required by an applicable collective bargaining agreement, employment policy or procedure, or employment contract; and student appeal of a sex equity grievance decision under 23 Ill. Admin. Code §200.40 (see sample policy 7:10, *Equal Educational Opportunities*).

³⁰ 34 C.F.R. §106.71.

³¹ Retaliation complaints must be processed under policy 2:260, *Uniform Grievance Procedure*, because they are covered under the district's grievance procedure for resolving non-sexual harassment Title IX complaints. See 34 C.F.R. §106.8(c). Title IX sexual harassment regulations state that "[c]omplaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under §106.8(c)." 34 C.F.R. §106.71.

General Personnel

Equal Employment Opportunity and Minority Recruitment 1

The School District shall provide equal employment opportunities² to all persons regardless of their race; color; creed; religion;³ national origin; sex;⁴ sexual orientation;⁵ age;⁶ ancestry; marital status;⁷

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¹ Federal and State law (see the policy's Legal References) require that all districts have a policy on equal employment opportunities and control this policy's content. **This is a complex, confusing, and highly litigated area of the law; consult the board attorney for advice on the application of these laws to specific fact situations.**

² *Equal employment opportunities* apply to virtually all terms and conditions of employment, e.g., discharge, hire, promotion, pay, demotion, and benefits (see the policy's Legal References). The Ill. Constitution protects the following categories from discrimination in employment: race, color, creed, national ancestry, sex, and handicap. Art. I, §§17, 18, and 19. The Ill. Human Rights Act (IHRA) protects the following categories from discrimination in employment, whether *actual* or *perceived*: race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, order of protection status, sexual orientation, pregnancy, unfavorable discharge from military service, and citizenship status. 775 ILCS 5/1-102 and 5/1-103, amended by P.A. 101-221, ~~eff. 1-1-20~~. Beginning 7-1-20, the IHRA requires employers to annually disclose to the Ill. Dept. of Human Rights (IDHR) certain information about adverse judgments and administrative rulings where there was a finding of sexual harassment or unlawful discrimination under any federal, State, or local law, as well as data regarding settlement agreements, if requested by an IDHR investigator. 775 ILCS 5/2-108, added by P.A. 101-221, ~~eff. 1-1-20~~ and scheduled to be repealed on 1-1-30.

The Equal Employment Opportunities Act (EEOA, a/k/a Title VII of the Civil Rights Act of 1964) prohibits discrimination because of an individual's race, color, religion, sex, or national origin. 42 U.S.C. §2000e *et seq.*, amended by The Lilly Ledbetter Fair Pay Act of 2009 (LLFPA), Pub.L. 111-2.

Under the Workplace Transparency Act (WTA) (820 ILCS 96/, added by P.A. 101-221, ~~eff. 1-1-20~~), employers may not, as a condition of employment or continued employment, prevent prospective or current employees from making truthful statements or disclosures about alleged unlawful employment practices, including discrimination. *Id.* at 96/1-25.

The LLFPA clarifies that a discriminatory compensation decision or other practice occurs each time an employee is paid or receives a last benefits check pursuant to the discriminatory compensation decision as opposed to only from the time when the discriminatory compensation decision or other practice occurred. The Act has no legislative history available to define what the phrase *or other practice* might mean beyond a discriminatory compensation decision.

The Ill. Equal Pay Act of 2003 (EPA) offers additional protection by prohibiting the payment of wages to one sex less than the opposite sex or to an African-American less than a non-African-American *for the same or substantially similar work*. 820 ILCS 112/, amended by P.A.s 100-1140 and 101-177. The Ill. Dept. of Labor (IDOL) enforces the EPA. The EPA also prohibits employers from requesting or requiring applicants to disclose wage or salary history as a condition of being considered for employment or as a condition of employment. *Id.* at 112/10(b-5), added by P.A. 101-177. If an applicant voluntarily offers such information without prompting, an employer still cannot use that information in making an offer or determining future pay. See [sample administrative procedure 5:30-AP1, Interview Questions](#), for sample permissible inquiries on this topic. Employers may seek wage or salary history from an applicant's current or former employer if that information is a matter of public record under the Freedom of Information Act; however, districts that wish to undertake such searches should exercise caution; the fact a district seeks out publicly available wage information could still be used against it in a pay discrimination claim. *Id.* at 112/10(b-10), added by P.A. 101-177. Consult the board attorney for further guidance.

While not exhaustive, other laws protecting these and additional classifications are named in subsequent footnotes.

³ 775 ILCS 5/2-102 of the IHRA, amended by P.A. 100-100, contains a **new-religious discrimination** subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

In addition to the IHRA and the federal EEOA (discussed in f/n 2), see 775 ILCS 35/, Religious Freedom Restoration Act.

arrest record;⁸ military status; order of protection status;⁹ unfavorable military discharge;¹⁰ citizenship status provided the individual is authorized to work in the United States;¹¹ use of lawful products while not at work;¹² being a victim of domestic violence, sexual violence, or gender violence;¹³ genetic information;¹⁴ physical or mental handicap or disability, if otherwise able to

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⁴ [Discrimination on the basis of sex under the EEOA includes discrimination on the basis of sexual orientation or transgender status. *Bostock v. Clayton County*, 140 S.Ct. 1731 \(2020\); *Hively v. Ivy Tech*, 853 F.3d 339 \(7th Cir. 2017\).](#) In addition to the IHRA and the federal EEOA (discussed in f/n 2), see Title IX of the Education Amendments of 1972 ([Title IX](#)). 20 U.S.C. §1681 *et seq.*; [34 C.F.R. Part 106](#). See [sample policy 2:265, Title IX Sexual Harassment Grievance Procedure](#). The federal Equal Pay Act prohibits an employer from paying persons of one sex less than the wage paid to persons of the opposite sex for equal work. 29 U.S.C. §206(d). See f/n 2 above for more information on State equal pay protections, including on the basis of sex. The LLFPA defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the IDOL. 820 ILCS 112/15(b).

⁵ *Sexual orientation* means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity; it does not include a physical or sexual attraction to a minor by an adult. 775 ILCS 5/1-103(O-1).

⁶ Age Discrimination in Employment Act (ADEA) (29 U.S.C. §621 *et seq.*), amended by LLFPA (see f/n 2). 29 C.F.R. Part 1625, amended the U.S. Equal Employment Opportunity Commission (EEOC) regulations under ADEA to reflect the U.S. Supreme Court's decision in [General Dynamic Systems, Inc. v. Cline](#), 540 U.S. 581 (2004), holding the ADEA to permit employers to favor older workers because of age. Thus, favoring an older person over a younger person is not unlawful discrimination, even when the younger person is at least 40 years old.

⁷ 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q), amended by P.A. 101-221, ~~eff. 1-1-20~~. The term *marital status* means an individual's legal status of being married, single, separated, divorced, or widowed. 775 ILCS 5/1-103(J). This statutory definition does not encompass the identity of one's spouse. Thus, school districts may adopt no-spouse policies. [Boaden v. Dept. of Law Enforcement](#), 171 Ill.2d 230 (Ill. 1996).

⁸ Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions. 775 ILCS 5/2-103. The Job Opportunities for Qualified Applicants Act prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions. 820 ILCS 75/15. See also the EEOC's guidance, [Consideration of Arrest and Conviction Records in Employment Decisions](#), at: www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

⁹ 775 ILCS 5/1-103(Q), amended by P.A. 101-221, ~~eff. 1-1-20~~. The term *order of protection status* means a person protected under an order of protection issued pursuant to the Ill. Domestic Violence Act of 1986 or an order of protection issued by a court of another state. 775 ILCS 5/1-103(K-5).

¹⁰ *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed Forces, or current member or veteran of the Ill. Army National Guard or Ill. Air National Guard. 775 ILCS 5/1-103(J-1). *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*. 775 ILCS 5/1-103(P). The Uniformed Services Employment and Reemployment Rights Act of 1994 prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. 38 U.S.C. §4301 *et seq.*

¹¹ 775 ILCS 5/1-102(C). According to the Immigration Reform and Control Act of 1986, all employers must verify that employees are either U.S. citizens or authorized to work in the U.S. 8 U.S.C. §1324(a) *et seq.*

¹² The Right to Privacy in the Workplace Act prohibits discrimination based on use of lawful products, e.g., alcohol, cannabis, and tobacco, off premises during non-working hours. 820 ILCS 55/5, amended by P.A. 101-27.

¹³ 820 ILCS 180/30, amended by P.A. 101-221, ~~eff. 1-1-20~~, Victims' Economic Security and Safety Act. *Gender violence* means: (1) one or more acts of violence or aggression that are a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, (2) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or (3) a threat to commit one of these acts. 820 ILCS 180/10(12.5), added by P.A. 101-221, ~~eff. 1-1-20~~. An employer is prohibited from discriminating against any individual, e.g. an applicant for employment, because he or she "is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act." The Workplace Violence Prevention Act allows an employer to seek a *workplace protection restraining order* when there is a credible threat of violence at the workplace. 820 ILCS 275/. Section 21 requires the employer seeking a *workplace protection restraining order* to notify the employee who is a victim of unlawful violence. 820 ILCS 275/21.

perform the essential functions of the job with reasonable accommodation;¹⁵ pregnancy, childbirth, or related medical conditions;¹⁶ credit history, unless a satisfactory credit history is an established bona fide occupational requirement of a particular position;¹⁷ or other legally protected categories.^{18 19 20}

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¹⁴ Illinois' Genetic Information Privacy Act (GIPA) (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff *et seq.*). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. GIPA, amended by P.A. 100-396, prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See f/n 12 in [sample policy 2:260, Uniform Grievance Procedure](#), for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. In 2011, the EEOC published an informative guidance letter, *ADA & GINA: Incentives for Workplace Wellness Program* at: www.eeoc.gov/eeoc/foia/letters/2011/ada_gina_incentives.html. But the EEOC vacated certain 2016 ADA and GINA wellness program regulations following an adverse court ruling. 83 Fed. Reg. 65296. Those rules provided guidance to employers on the extent to which they could use incentives (such as discounted health plan costs) to encourage employees to participate in wellness programs that asked for employee and family health information. Consult the board attorney for guidance regarding specific application of ADA and GINA and how they integrate with other related laws, e.g., the Family Medical Leave Act, the Americans with Disabilities Act, and other State laws governing time off for sickness and workers' compensation.

¹⁵ Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101 *et seq.*), amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) (Pub. L. 110-325) and modified by the LLFPA; Rehabilitation Act of 1973 (29 U.S.C. §701 *et seq.*).

¹⁶ 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy, childbirth, or related conditions. 775 ILCS 5/2-102(J). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. 775 ILCS 5/2-102(K). The IDOL is required to prepare such a notice, retrievable from its website, which employers may use.

Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions. 42 U.S.C. §2000e(k). State law also prohibits the State, which includes school districts, from interfering with or discriminating against an individual's fundamental right to continue a pregnancy or to have an abortion. 775 ILCS 55/, added by P.A. 101-13. Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA. Guidance from the EEOC (7-14-14) is available at: www.eeoc.gov/laws/guidance/pregnancy_qa.cfm.

¹⁷ 820 ILCS 70/, Employee Credit Privacy Act. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

¹⁸ Insert the following optional sentence (775 ILCS 5/1-103(a) and 29 U.S.C. §631):

Age, as used in this policy, means the age of a person who is at least 40 years old.

¹⁹ Insert the following optional provision (29 U.S.C. §705(10)(A)-(B), (20)(C)(v), (20)(D) and 42 U.S.C. §12114):

Handicap and *disability*, as used in this policy, excludes persons:

1. Currently using illegal drugs;
 2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job; or
 3. Whose current alcohol use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others.
- Persons who have successfully completed or are participating in a drug rehabilitation program are considered *disabled*.

²¹ No one will be penalized solely for his or her status as a registered qualifying patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/. ²²

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint, was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the employee or applicant did not make a knowingly false accusation nor provide knowingly false information. ²³

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²⁰ Districts may not make residency in the district a condition of employment for teachers or educational support personnel. 105 ILCS 5/24-4.1, 5/10-23.5. This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. *Owen v. Kankakee Sch. Dist.*, 261 Ill.App.3d 298 (3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act. 820 ILCS 55/10(a). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account. 820 ILCS 55/10(b). While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

²¹ School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See 740 ILCS 137/, Right to Breastfeed Act; 820 ILCS 260/, amended by P.A. 100-1003, Nursing Mothers in the Workplace Act (NMWA); and 29 U.S.C. §207(r), Fair Labor Standards Act. At least one court has ruled an implied private right of action may exist under the NMWA. *Spriessch v. City of Chicago*, 2017 WL 4864913 (N.D.Ill. 2017). See sample language for a personnel handbook in 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

²² 410 ILCS 130/40, amended by P.A. 101-363, ~~eff. 1-1-20~~ and scheduled to be repealed on 7-1-20; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their *use of cannabis*, e.g. permissible locations, is governed by the Compassionate Use of Medical Cannabis Program Act. 410 ILCS 130/, amended by P.A.s 100-660 and 101-363, ~~eff. 1-1-20~~. There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis except as provided under *Ashley's Law* (105 ILCS 5/22-33, added by P.A. 100-660), including in a school bus or on the grounds of any preschool, or primary or secondary school. 410 ILCS 130/30(a)(2)(3), amended by P.A. 100-660. See sample policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*, at f/n 9 for further discussion.

²³ 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the IHRA. *Id.* Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the EEOA, Title IX, ADA, ADEA, Victims' Economic Security and Safety Act, the EPA, and the Ill. Whistleblower Act (IWA).

The IWA specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation (740 ILCS 174/15(b)); (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation (740 ILCS 174/15(a)); (3) refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of the Freedom of Information Act (740 ILCS 174/20); and (4) disclosing or attempting to disclose public corruption or wrongdoing (740 ILCS 174/20.1). The definition of retaliation is expanded to include *other retaliation and threatening retaliation*. 740 ILCS 174/20.1, 20.2.

The Ill. False Claims Act defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. 740 ILCS 175/4. For information regarding the IWA and the tort of retaliatory discharge. See *Thomas v. Guardsmark*, 487 F.3d 531 (7th Cir. 2007)(discussing the elements of retaliatory discharge and IWA); *Sherman v. Kraft General Foods, Inc.*, 272 Ill.App.3d 833 (4th Dist. 1995)(finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator for personnel who shall be responsible for coordinating the District's nondiscrimination efforts. The Nondiscrimination Coordinator may be the Superintendent or a Complaint Manager for the Uniform Grievance Procedure. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. ²⁴

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.

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²⁴ The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator," insert a hard return to create a new paragraph, and insert "The Superintendent shall appoint a Title IX Coordinator to coordinate the District's efforts to comply with Title IX." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

²⁵ Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html. Title IX regulations require districts to designate and authorize at least one employee to coordinate their efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX Coordinator by name, office address, email address, and telephone number. *Id.* See f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Nondiscrimination Coordinator: 26

Name

Address

Email

Telephone

Complaint Managers:

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks. 27

Minority Recruitment 28

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however,

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26 ~~Sample policy 2:260, Uniform Grievance Procedure, states that a district's Nondiscrimination Coordinator also serves as its Title IX Coordinator.~~ Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

27 In addition to notifying employees of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX and the Rehabilitation Act of 1973. 34 C.F.R. §§106.8(a), 104.8(a). The Nondiscrimination Coordinator may be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as a Complaint Manager for policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information, to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

28 All districts must have a policy on minority recruitment. 105 ILCS 5/10-20.7a. Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution's guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 *et seq.* (EEOC's guidelines for affirmative action plans); Wygant v. Jackson Bd. of Ed., 476 U.S. 267 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.).

The IHRA states that it shall not be construed as requiring any employer to give preferential treatment or special rights based on sexual orientation or to implement affirmative action policies or programs based on sexual orientation. 775 ILCS 5/1-101.1.

does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

- LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.
20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972;
~~implemented by~~ 34 C.F.R. Part 106.
29 U.S.C. §206(d), Equal Pay Act.
29 U.S.C. §621 et seq., Age Discrimination in Employment Act.
29 U.S.C. §701 et seq., Rehabilitation Act of 1973.
38 U.S.C. §4301 et seq., Uniformed Services Employment and Reemployment Rights Act (1994).
42 U.S.C. §1981 et seq., Civil Rights Act of 1991.
42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964;
~~implemented by~~ 29 C.F.R. Part 1601.
42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act of 2008.
42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.
42 U.S.C. §2000e(k), Pregnancy Discrimination Act.
42 U.S.C. §12111 et seq., Americans with Disabilities Act, Title I.
Ill. Constitution, Art. I, §§17, 18, and 19.
105 ILCS 5/10-20.7, 5/20.7a, 5/21.1, 5/22.4, 5/23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.
410 ILCS 130/40, Compassionate Use of Medical Cannabis Program Act.
410 ILCS 513/25, Genetic Information Privacy Act.
740 ILCS 174/, Ill. Whistleblower Act.
775 ILCS 5/1-103, 5/2-102, 103, and 5/6-101, Ill. Human Rights Act.
775 ILCS 35/5, Religious Freedom Restoration Act.
820 ILCS 55/10, Right to Privacy in the Workplace Act.
820 ILCS 70/, Employee Credit Privacy Act.
820 ILCS 75/, Job Opportunities for Qualified Applicants Act.
820 ILCS 112/, Ill. Equal Pay Act of 2003.
820 ILCS 180/30, Victims' Economic Security and Safety Act.
820 ILCS 260/, Nursing Mothers in the Workplace Act.
- CROSS REF.: 2:260 (Uniform Grievance Procedure), [2:265 \(Title IX Sexual Harassment Grievance Procedure\)](#), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:40 (Communicable and Chronic Infectious Disease), 5:50 (Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition), 5:70 (Religious Holidays), 5:180 (Temporary Illness or Temporary Incapacity), 5:200 (Terms and Conditions of Employment and Dismissal), 5:250 (Leaves of Absence), 5:270 (Employment, At-Will, Compensation, and Assignment), 5:300 (Schedules and Employment Year), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:70 (Accommodating Individuals with Disabilities)

General Personnel

Workplace Harassment Prohibited 1

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's actual or perceived race, color, religion², national origin, ancestry, sex, sexual orientation, age, citizenship status, disability, pregnancy, marital status, order of protection status, military status, or unfavorable discharge from military service, nor shall they engage in harassment or abusive conduct on the basis of an individual's other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students,

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¹ State or federal law controls this policy's content. Federal law requires districts to take action to prevent sexual harassment and to disseminate a policy regarding its prohibition of sex discrimination. 29 C.F.R. §1604.11(f); 34 C.F.R. §106.8(b)⁹. State law requires districts to establish a policy to prohibit sexual harassment. 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221. See ¶n 3 below. Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

Workplace harassment policies have typically focused on *sexual* harassment since it receives the most attention. However, the broad prohibitions against discrimination in State and federal civil rights laws will cover harassing conduct that is motivated by animus against any protected status. See *Porter v. Erie Foods International, Inc.*, 576 F.3d 629 (7th Cir. 2009) (recognizing a cause of action for race harassment). For a list of protected statuses, see [sample](#) policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. This policy prohibiting harassment has a separate section on sexual harassment because of the extensive statutory and case law regarding it.

Under the Ill. Human Rights Act (IHRA), harassment is unlawful if it has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. 775 ILCS 5/2-101(E-1), added by P.A. 101-221, ~~eff. 1-1-20~~. *Working environment* is not limited to a physical location to which an employee is assigned. *Id.* Harassment is unlawful on the basis of the specifically-listed categories in this policy whether that status is *actual or perceived*. *Id.*

An employer is liable under Title VII of the Civil Rights Act of 1964 (Title VII) for an employee's harassment of a co-worker if the employer was negligent with respect to the offensive behavior by, for example, failing to take remedial action when it knew or should have known about the harassment. 42 U.S.C. §2000e et seq. An employer is liable under the IHRA for harassment by its nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A), amended by P.A. 101-221, ~~eff. 1-1-20~~. However, when the perpetrator is the victim's supervisor, the employer will be vicariously liable for the supervisor's actions. Lack of knowledge of a supervisor's misconduct is no defense. *Burlington Industries v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). A *supervisor* is someone who has the authority to demote, discharge, or take other negative job action against the victim. *Vance v. Ball State University*, 133 S.Ct. 2434 (2013). Note that the IHRA, (775 ILCS 5/2-102(D)) imposes strict liability on the employer when an employee has been sexually harassed by supervisory personnel regardless of whether the harasser has any authority over the complainant. *Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n*, 233 Ill.2d 125 (Ill. 2009). Additionally, under the IHRA, an employer is liable for the harassment of *nonemployees* by nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A-10) and (D-5), added by P.A. 101-221, ~~eff. 1-1-20~~. Nonemployees are those who are directly performing services for an employer pursuant to a contract, such as contractors or consultants. *Id.*

Not all harassing conduct is unlawful discrimination, even if it is disruptive and hurtful. If a board wants to include language in this policy prohibiting employees from engaging in intimidating or offensive conduct that is *not* a civil rights violation, it should consult the board attorney.

² Section 2-102 of the IHRA, amended by P.A. 100-100, contains a *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

including, but not limited to, sexual harassment, is prohibited by Board policies [2:260, Uniform Grievance Procedure: 2:265, Title IX Sexual Harassment Grievance Procedure: 7:20, Harassment of Students Prohibited: 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment: and 7:185, Teen Dating Violence Prohibited.](#)

The District will take remedial and corrective action to address unlawful workplace harassment, including sexual harassment.

Sexual Harassment Prohibited³

The ~~School~~ District shall provide a workplace environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law. The District provides annual sexual harassment prevention training in accordance with State law.⁴

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection

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³ The IHRA (775 ILCS 5/2-102(D)) provides that sexual harassment is a civil rights violation:

For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

See sample policy 2:265, Title IX Sexual Harassment Grievance Procedure, for the definition of Title IX sexual harassment (20 U.S.C. §1681 et seq.), and see f/n 3 of it for examples of employee sexual harassment that may violate Title IX. Title IX's reach is broad because an alleged complainant or alleged respondent may be anyone in the district's educational program or activity. This includes applicants for employment, students, parents/guardians, any employee, and third parties. Districts are liable for Title IX sexual harassment when any district employee has actual knowledge of sexual harassment or allegations of sexual harassment against anyone in the district (except when the only employee with knowledge is the perpetrator of the alleged sexual harassment). 34 C.F.R. §106.30.

The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221) requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20.

The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights (IDHR); (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/); (4) the consequences: (a) of a violation of the prohibition on sexual harassment and (b) for knowingly making a false report; and (5) a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit. 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221. *PSample policy 2:105, Ethics and Gift Ban,* covers item (5) of this list.

⁴ 775 ILCS 5/2-109, added by P.A. 101-221, ~~eff. 1-1-20~~. See *sample policy 5:100, Staff Development Program*, at f/n 4. Districts may use a free, online model program to be offered by the Ill. Dept. of Human Rights (IDHR), develop their own program, or utilize a combination of the two, as long as it includes the following, at a minimum: (1) an explanation of sexual harassment consistent with the IHRA, (2) examples of conduct that constitutes unlawful harassment, (3) a summary of relevant federal and State law concerning sexual harassment and remedies available to victims of sexual harassment, and (4) a summary of responsibilities of employers in the prevention, investigation, and corrective measures of sexual harassment. *Id.* at 5/2-109(B), added by P.A. 101-221, ~~eff. 1-1-20~~. For IDHR's online model program, see its *Model Sexual Harassment Prevention Training Program* page at: <https://www2.illinois.gov/dhr/Training/Pages/State-of-Illinois-Sexual-Harassment-Prevention-Training-Model.aspx>. Employers that fail to comply with this training requirement may face financial penalties. *Id.* Training on other types of workplace harassment is not required by law; however it is best practice.

of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.⁵ Sexual harassment prohibited by this policy includes, but is not limited to, verbal, physical, or other conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

Making a Report or Complaint

Employees and *nonemployees*⁶ (persons who are not otherwise employees and are directly performing services for the District pursuant to a contract with the District, including contractors, and consultants) are encouraged to promptly report information regarding violations of this policy. Individuals may choose to report to a person of the individual's same gender. Every effort should be made to file such reports or complaints as soon as possible, while facts are known and potential witnesses are available.

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⁵ This definition is from State and federal law. 775 ILCS 5/2-101(E) and 29 C.F.R. §1604.11. *Working environment* is not limited to a physical location to which an employee is assigned. 775 ILCS 5/2-101(E), amended by P.A. 101-221-~~eff. 1-1-20~~. The harassing conduct must be severe or pervasive so as to alter the conditions of the employee's work environment by creating a hostile or abusive situation. *Williams v. Waste Management*, 361 F.3d 1021 (7th Cir. 2004). The surrounding circumstances, expectations, and relationships will distinguish between teasing or rough-housing and conduct that a reasonable person would find severely hostile or abusive. In addition, while same-sex gender harassment claims are actionable, the victim must show that s/he suffered disadvantageous employment conditions to which members of the other sex were not exposed. *Oncale v. Sundowner Offshore Services*, 523 U.S. 75 (1998).

⁶ 775 ILCS 5/2-102(A-10) and (D-5), added by P.A. 101-221. See also f/n 1, above, for discussion regarding nonemployees.

Aggrieved individuals, if they feel comfortable doing so, should directly inform the person engaging in the harassing conduct or communication that such conduct or communication is offensive and must stop.

Whom to Contact with a Report or Complaint ⁷

An employee should report claims of harassment, including making a confidential report, to any of the following: his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager. ⁸

Employee may also report claims using Board policy 2:260, *Uniform Grievance Procedure*. If a claim is reported using Board policy 2:260, then the Complaint Manager shall process and review the ~~complaint~~ claim according to that policy, in addition to any response required by this policy.

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. ⁹

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

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⁷ ~~While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. A policy should not be adopted with a person's name in it; rather, the identifying information can be added and amended as necessary.~~

⁸ 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires that a school board policy prohibiting sexual harassment include details for reporting an allegation of sexual harassment, including options for making a confidential report to a supervisor and an ethics officer. 5 ILCS 430/20-23 defines *ethics officers* as being designated by State agencies under the jurisdiction of the Executive Ethics Commission. School districts are not State agencies (5 ILCS 430/1-5) and do not have ethics officers; thus, this sample policy substitutes Complaint Manager for ethics officer. Note also that the IDHR has established a Sexual Harassment Hotline Call Center and website to help the public find resources and assistance for the filing of sexual harassment complaints. The hotline can be reached Monday through Friday with the exception of State holidays, between the hours of 8:30 a.m. and 5:00 p.m., at 1-877-236-7703. See www2.illinois.gov/sites/sexualharassment/Pages/default.aspx. All communications received by the IDHR are exempt from disclosure under the Freedom of Information Act (FOIA).

⁹ ~~Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator." and supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.~~

Complaint Managers:

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Email	Email
_____	_____
Telephone	Telephone

Investigation Process

~~Supervisors, Building Principals, or administrators~~ Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.¹⁰ ~~Any employee-supervisor or administrator~~ who fails to promptly forward a report or complaint may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District’s duty to investigate and maintain a workplace environment that is productive, respectful, and free of unlawful discrimination, including harassment. ~~The District shall investigate alleged workplace harassment when the Nondiscrimination Coordinator or a Complaint Manager becomes aware of an allegation, regardless of whether a written report or complaint is filed.~~

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee¹¹ shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged workplace harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policy 2:260, *Uniform Grievance Procedure*, and/or 5:120, *Employee Ethics; Conduct, and Conflict of Interest*,¹² should be initiated, regardless of whether a written report or complaint is filed.

Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel¹³

An alleged incident of sexual abuse is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor

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¹⁰ If the district’s Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state “Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager.”

¹¹ “Nondiscrimination Coordinator or designee” is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then “Nondiscrimination Coordinator or a Complaint Manager or designee” is used (see next paragraph in policy text). If the district’s Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete “Nondiscrimination” and insert “Title IX” in its place.

¹² See administrative procedure 5:120-AP2, *Employee Conduct Standards*.

¹³ Required for districts located within a county served by an accredited Children’s Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531 (governing the investigation of an alleged incident of sexual abuse of any child within any Illinois counties served by a CAC). For further discussion see f/n 14 in sample policy 5:90, *Abused and Neglected Child Reporting*.

or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, or policy 2:260, *Uniform Grievance Procedure*.

Enforcement¹⁴

A violation of this policy by an employee may result in discipline, up to and including discharge.¹⁵ A violation of this policy by a third party will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, i.e.g., vendor, parent, invitee, etc. Any ~~person~~ employee making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, which for an employee that may be up to and including discharge.¹⁶

Retaliation Prohibited

An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing ~~bona fide~~ complaints or providing information about harassment is prohibited (see Board policy 2:260, *Uniform Grievance Procedure*), and depending upon the law governing the complaint, whistleblower protection may be available under the State Officials and Employees Ethics Act (5 ILCS 430/), the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/).¹⁷

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¹⁴ See *Berry v. Delta Airlines*, 260 F.3d 803, 811 (7th Cir. 2001) ("If an employer takes reasonable steps to discover and rectify the harassment of its employees ... it has discharged its legal duty.")

In addition to violating other civil rights laws, a school district violates the *public accommodations* article in the IHRA if it fails to take corrective action to stop severe or pervasive harassment. 775 ILCS 5/5-102 and 5/5-102.2.

¹⁵ 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences of a violation of the prohibition on sexual harassment). When discharge is the penalty, examine 50 ILCS 205/3c, added by P.A. 100-1040. It requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was found to have engaged in sexual harassment or sexual discrimination, as defined by the IHRA or Title VII. *Id.* Additionally, under the Workplace Transparency Act (WTA), employers may not require confidentiality clauses in settlement or termination agreements involving alleged unlawful employment practices under federal or State civil rights laws, except under specific conditions. 820 ILCS 96/1-30, added by P.A. 101-221, ~~eff. 1-1-20~~.

Prior to the passage of 50 ILCS 205/3c, added by P.A. 100-1040, and the WTA, members of the public could already access copies of severance agreements between school districts and their former employees under FOIA. The Ill. Atty. Gen. Public Access Counselor (PAC) directed a public body to release a settlement agreement that arose out of claims of sexual harassment. PAO 14-4. The PAC noted that the public body could not withhold the entire settlement agreement under 5 ILCS 140/7(1)(c), which exempts personal information that would constitute a clearly unwarranted invasion of privacy. Instead, it could redact personal information from the agreement, such as the complainants' names in order to protect their privacy. *Id.* However, data regarding settlement agreements involving allegations of sexual harassment or other unlawful discrimination that an employer must report to IDHR under 775 ILCS 5/2-108 is categorically exempt from FOIA. 5 ILCS 140/7.5(oo), added by P.A. 101-221, ~~eff. 1-1-20~~. See f/n 6 in sample policy 2:260, *Uniform Grievance Procedure*, for more discussion about reconciling 50 ILCS 205/3c, added by P.A. 100-1040, with another new law, the Government Severance Pay Act (GSPA) (5 ILCS 415/10(a)(1), added by P.A. 100-895), which prohibits school district employees with contract provisions for severance pay to receive any severance pay if they are fired for *misconduct* by the board.

¹⁶ 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences for knowingly making a false report of sexual harassment).

¹⁷ *Id.* (prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/)).

Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009) (holding the anti-retaliation provision in EEOA protects an employee who spoke out about harassment, not only on his or her own initiative, but also in answering questions during an employer's internal investigation).

Commented [MB1]: Formerly footnote 9.

Commented [MB2]: Formerly footnote 10.

Commented [MB3]: Formerly footnote 11.

Commented [MB4]: Formerly footnote 12.

An employee should report allegations of retaliation to his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

Employees who retaliate against others for reporting or complaining of violations of this policy or for participating in the reporting or complaint process will be subject to disciplinary action, up to and including discharge.

Recourse to State and Federal Fair Employment Practice Agencies ¹⁸

The District encourages all employees who have information regarding violations of this policy to report the information pursuant to this policy. The following government agencies are available to assist employees: the Ill. Dept. of Human Rights and the U.S. Equal Employment Opportunity Commission.

The Superintendent shall also use reasonable measures to inform staff members, applicants, and nonemployees of this policy, which shall include posting on the District website and/or making this policy available in the District's administrative office, and including this policy in the appropriate handbooks. ¹⁹

Commented [MB5]: Formerly footnote 13.

Commented [MB6]: Formerly footnote 14.

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¹⁸ 5 ILCS 430/70-5(a), amended by P.A. 100-554, (how an individual can report an allegation of sexual harassment, including options for making a confidential report to the Inspector General or the IDHR). This sample policy does not reference the Inspector General because the Inspector General does not have jurisdiction over public school districts. 5 ILCS 430/1. School districts must also annually disclose to IDHR certain data about *adverse judgment or administrative rulings* made against them where there was a finding of sexual harassment or unlawful discrimination under federal, State, or local laws. 775 ILCS 5/2-108, added by P.A. 101-221, ~~eff. 1-1-20~~.

¹⁹ A district must notify employees of the grievance procedure and the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. §106.8(~~a~~). The nondiscrimination coordinator can be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as the complaint manager in policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

Informing nonemployees is not required by law. However, given the potential for employer liability under the IHRA for harassment of nonemployees, best practice is to publicize this policy to those individuals as well.

LEGAL REF.: Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.; ~~implemented by~~
29 C.F.R. §1604.11.
Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq.; ~~implemented~~
~~by~~ 34 C.F.R. Part 106.
State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).
Ill. Human Rights Act, 775 ILCS 5/2-101(E) and (E-1), 5/2-102(A), (A-10), (D-5),
5/2-102(E-5), 5/2-109, 5/5-102, and 5/5-102.2.
56 Ill. Admin.Code Parts 2500, 2510, 5210, and 5220.
Burlington Industries v. Ellerth, 524 U.S. 742 (1998).
Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009).
Faragher v. City of Boca Raton, 524 U.S. 775 (1998).
Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 (1992).
Harris v. Forklift Systems, 510 U.S. 17 (1993).
Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005).
Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986).
Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998).
Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009).
Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 (Ill.
2009).
Vance v. Ball State University, 133 S. Ct. 2434 (2013).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment
Grievance Procedure), 4:60 (Purchases and Contracts), 5:10 (Equal Employment
Opportunity and Minority Recruitment), 5:90 (Abused and Neglected Child
Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 7:20
(Harassment of Students Prohibited), 8:30 (Visitors to and Conduct on School
Property)

General Personnel

Staff Development Program 1

The Superintendent or designee shall implement a staff development program. The goal of such program shall be to update and improve the skills and knowledge of staff members in order to achieve and maintain a high level of job performance and satisfaction. Additionally, the development program for licensed staff members shall be designed to effectuate the District and School Improvement Plans so that student learning objectives meet or exceed goals established by the District and State.

The staff development program shall provide, at a minimum, at least once every two years, the in-service training of licensed school personnel and administrators on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment, and the use of psychotropic or psychostimulant medication for school-age children. ²

The staff development program shall provide, at a minimum, once every two years, the in-service training of all District staff on educator ethics, teacher-student conduct, and school employee-student conduct. ^{3 4 5}

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¹ State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy’s content. A school board may set and enforce professional growth requirements. 105 ILCS 5/24-5. Failure to meet professional growth requirements is considered remediable. *Morris v. Ill. State Bd. of Educ.*, 198 Ill.App.3d 51 (3rd Dist. 1990).

105 ILCS 5/2-3.62, ~~amended by P.A. 99-30 (repealing 105 ILCS 5.2-3.60)~~, requires the Ill. State Board of Education (ISBE) to establish a regional network of educational service centers to coordinate and combine existing services in a manner that is practical and efficient for schools. Their purposes are to provide, among other things, continuing education, in-service training, and staff development services to all local school districts in Illinois.

² This paraphrases 105 ILCS 5/10-20.36(b). The topic covered in this paragraph must be in a board policy. *Id.* A school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10) may recommend that a student be evaluated by an appropriate medical practitioner. School personnel may consult with the practitioner, with the consent of the student’s parent/guardian.

³ 105 ILCS 5/10-22.39(f) requires boards to conduct this in-service. While the language of this paragraph is not required to be in board policy, including it provides a way for boards to monitor that it is being done. Including this language provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See also [sample policy 5:120, Employee Ethics; Conduct; and Conflict of Interest](#), and f/n 11 in [sample policy 4:110, Transportation](#). These expectations will be most effective when they reflect local conditions and circumstances. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new employee conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

⁴ Insert the following option if a board wants to list in-services and/or trainings that State and federal law require, but are not required to be specified in board policy. If the board does not choose this option, delete 325 ILCS 5/4 from the Legal References. The only non-School Code ~~s~~State and/or federal law training requirements listed are from the Abused and Neglected Child Reporting Act, Ill. Human Rights Act, ~~and~~ the Seizure Smart School Act, and Title IX of the Education Amendments of 1972 (Title IX).

In addition, the staff development program shall include each of the following:

1. At least, once every two years, training of all District staff by a person with expertise on anaphylactic reactions and management.

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2. At least every two years, an in-service to train school personnel, at a minimum, to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.
3. Training that, at a minimum, provides District staff with a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS) and the availability of appropriate sources of counseling and referral.
4. Training for licensed school personnel and administrators who work with students in grades kindergarten through 12 to identify the warning signs of mental illness and suicidal behavior in youth along with appropriate intervention and referral techniques.
5. Abused and Neglected Child Reporting Act (ANCRA), School Code, and *Erin's Law* Training as follows:
 - a. Staff development for local school site personnel who work with students in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect (see policy 5:90, *Abused and Neglected Child Reporting*).
 - b. Within three months of employment, each staff member must complete mandated reporter training from a provider or agency with expertise in recognizing and reporting child abuse. Mandated reporter training must be completed again at least every three years (see policy 5:90, *Abused and Neglected Child Reporting*).
 - c. Informing educators about the recommendation in the *Erin's Law* Taskforce Report requesting them to attend continuing professional development programs that address the prevention and identification of child sexual abuse (see policy 5:90, *Abused and Neglected Child Reporting*).
6. Education for staff instructing students in grades 7 through 12, concerning teen dating violence as recommended by the District's Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students or Complaint Manager.
7. Ongoing professional development for teachers, administrators, school resource officers, and staff regarding the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.
8. Annual continuing education and/or training opportunities (*professional standards*) for school nutrition program directors, managers, and staff. Each school food authority's director shall document compliance with this requirement by the end of each school year and maintain documentation for a three year period.
9. All high school coaching personnel, including the head and assistant coaches, and athletic directors must obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. Coaching personnel and athletic directors hired on or after 8-19-14 must be certified before their position's start date.
10. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: coaches and assistant coaches (whether volunteer or employee) of an interscholastic athletic activity; nurses, licensed and/or non-licensed healthcare professionals serving on the Concussion Oversight Team; athletic trainers; game officials of an interscholastic athletic activity; and physicians serving on the Concussion Oversight Team.
11. Every two years, school personnel who work with students must complete an in-person or online training program on the management of asthma, the prevention of asthma symptoms, and emergency response in the school setting.
12. Training for school personnel to develop cultural competency, including understanding and reducing implicit racial bias.
13. For school personnel who work with hazardous or toxic materials on a regular basis, training on the safe handling and use of such materials.
14. For nurses, administrators, guidance counselors, teachers, persons employed by a local health department and assigned to a school, and persons who contract with the District to perform services in connection with a student's seizure action plan, training in the basics of seizure recognition, first aid, and appropriate emergency protocols.
15. For all District staff, annual sexual harassment prevention training.
16. Title IX requirements for training as follows (see policy 2:265, *Title IX Sexual Harassment Grievance Procedure*):

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- a. For all District staff, training on the definition of sexual harassment, the scope of the District's education program or activity, all relevant District policies and procedures, and the necessity to promptly forward all reports of sexual harassment to the Title IX Coordinator.
- b. For school personnel designated as Title IX coordinators, investigators, decision-makers, or informal resolution facilitators, training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially.
- c. For school personnel designated as Title IX investigators, training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- a.d. For school personnel designated as Title IX decision-makers, training on issues of relevance of questions and evidence, including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant.

Alternative to paragraph number 2:

2. At least every two years, an in-service to train school personnel who work with students on how to: (a) communicate with and listen to youth victims of domestic or sexual violence and expectant and parenting youth, (b) connect youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs and services as needed, and (c) implement the School District's policies, procedures, and protocols with regard to such youth, including confidentiality. The in-service shall be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth.

Citations for this option follow:

1. 105 ILCS 5/10-22.39(e) (refers to anaphylactic reactions/management).
2. 105 ILCS 5/10-22.39(d).
3. 105 ILCS 5/10-22.39(c).
4. 105 ILCS 5/10-22.39(b), amended by P.A.s 100-903 and 101-350, ~~eff. 1-1-20~~. The law allows districts to use the Ill. Mental Health First Aid training program to provide this training. If a licensed employee or an administrator obtains mental health first aid training outside of an in-service training program, he or she may present a certificate of successful completion of that training to the school district to satisfy the requirements of this law.
5. 105 ILCS 5/10-23.12, amended by P.A. 101-531; 325 ILCS 5/4(j), amended by P.A. 101-564, ~~eff. 1-1-20~~; and *Erin's Law Taskforce Final Report*, authorized by 105 ILCS 5/22-65 and repealed by P.A. 99-30 because of submission of the Report at: www.isbe.net/Documents/erins-law-final0512.pdf and see also www.erinlawillinois.org/ for more resources based upon the report. Training may be in-person or web-based and must include, at a minimum, information on the following topics: (1) indicators for recognizing child abuse and child neglect; (2) the process for reporting suspected child abuse and child neglect and the required documentation; (3) responding to a child in a trauma-informed manner; and (4) understanding the response of child protective services and the role of the reporter after a call has been made. 325 ILCS 5/4(j), amended by P.A. 101-564, ~~eff. 1-1-20~~. Districts must provide training through either DCFS, an entity authorized to provide continuing education through the Dept. of Financial and Professional Regulation, the Ill. State Board of Education, the Ill. Law Enforcement Training Standards Board, the Ill. Dept. of State Police, or an organization approved by DCFS to provide mandated reporter training. *Id.* *Child-serving organizations*, which are not defined in ANCRA, are "encouraged to provide in-person annual trainings." *Id.*
6. 105 ILCS 110/3.10(b)(2).
7. 105 ILCS 5/10-22.6(c-5), amended by P.A. 100-810. School board members are also included.
8. 7 C.F.R. Parts 210 and 235. Section 210.2 defines school nutrition program directors, managers and staff. 7 C.F.R. §§210.15(b)(8) (recordkeeping requirements) and 210.31(a), (c), (d), and (e) (professional standards requirements); 210.31(g)(requiring school food authority director to keep records), amended by Fed. Reg. Vol. 81, No. 146 at 50169 and finalized 7-29-16. Food service funds may be used for reasonable, allocable, and necessary training costs. 7 C.F.R. §210.31(f). The U.S. Dept. of Agriculture (USDA) has established implementation resources that contain training opportunities and resources covering the four core training areas: nutrition, operations, administration, and communications/marketing at: www.fns.usda.gov/school-meals/professional-standards.
9. 105 ILCS 25/1.15.
10. 105 ILCS 5/22-80(h), amended by P.A. 100-309.
11. 105 ILCS 5/22-30(j-15). Consult the board attorney about whether:

The Superintendent shall develop protocols for administering youth suicide awareness and prevention education to staff consistent with Board policy 7:290, *Suicide and Depression Awareness and Prevention*.⁶

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- a. All asthma action plans should require immediate 911 calls based upon In re Estate of Stewart, 406 Ill.Dec. 345 (2nd Dist. 2016); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied). The court held that a teacher's failure to dial 911 immediately upon a student's asthma attack was *willful and wanton* conduct, subjecting the school district to liability under the Local Governmental and Governmental Employees Tort Immunity Act.
 - b. The duties and responsibilities of the district when it asks for, but does not receive an asthma action plan from a parent/guardian and the logistics of distributing any received plans to those employees who need to know based upon Stewart, above.
12. 105 ILCS 5/10-20.61, added by P.A. 100-14.
 13. 105 ILCS 5/10-20.17a; 23 Ill.Admin.Code §1.330.
 14. 105 ILCS 150/25, added by P.A. 101-50, ~~eff. 7-1-20~~.
 15. 775 ILCS 5/2-109, added by P.A. 101-221, ~~eff. 1-1-20~~.
 - ~~15-16.~~ 34 C.F.R. §106.45(b)(1)(iii).

Putting this optional list into the policy will help the board monitor that the required in-service and training topics are being covered. While it is possible to *pick and choose*, this practice is likely to add more confusion to an already confusing responsibility. Unless noted, the School Code does not mandate the frequency with which the training must occur. Several other trainings that are mentioned in laws other than the School Code are addressed in other policies. Many of those policies are listed in the cross-references to this policy, e.g., training requirements under the Care of Students with Diabetes Act. 105 ILCS 145/.

⁵ Different from the in-service training that school districts must provide to their staff, 105 ILCS 5/3-11, contains requirements that the regional superintendents must include during teachers institutes. Instruction on prevalent student chronic health conditions, as well as educator ethics and teacher-student conduct training is also required. See also f/n 3 above discussing the board's requirement in Section 10-22.39. Beginning with the 2016-17 school year, teachers' institutes must also include instruction on the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101 et seq.) as it pertains to the school environment at least every two years. Contact the Regional Superintendent or the appropriate Intermediate Service Center with questions about online training for this component of a teachers' institute. Discuss with the board attorney the best practices of documenting trainings and evaluations of trainings; many attorneys in the field prefer documentation of ADA trainings to assist in their defense of any potential ADA claims against the district.

For districts that have a practice of providing instruction in life-saving techniques and first-aid in their staff development programs, insert the following optional paragraph that restates 105 ILCS 5/3-11, 105 ILCS 110/3, and 77 Ill.Admin.Code §527.800:

An opportunity shall be provided for all staff members to acquire, develop, and maintain the knowledge and skills necessary to properly administer life-saving techniques and first aid, including the Heimlich maneuver, cardiopulmonary resuscitation, and the use of an automated external defibrillator, in accordance with a nationally recognized certifying organization. Physical fitness facilities' staff must be trained in cardiopulmonary resuscitation and use of an automated external defibrillator.

Persons performing CPR are generally exempt from civil liability if they are trained in CPR (745 ILCS 49/10); persons performing automated external defibrillation are generally exempt from civil liability if they were trained and acted according to the standards of the American Heart Association (745 ILCS 49/12).

The board may also want to address other staff development opportunities. While not required to be policy, 105 ILCS 5/27-23.10 requires a school board to collaborate with State and local law enforcement agencies on gang resistance education and training. It also states that ISBE may assist in the development of instructional materials and teacher training for gang resistance education and training, which may be helpful to include in the staff development program. Other mandated and recommended staff development opportunities that are not located in the School Code or ISBE rules are found in the Ill. Administrative Code or federal regulations. Many of them are cross referenced in this policy.

⁶ Required by 105 ILCS 5/2-3.166(c)(2).

- LEGAL REF.: [20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.](#)
~~Healthy, Hunger-Free Kids Act of 2010~~, 42 U.S.C. §1758b, Pub. L. 111-296,
[Healthy, Hunger-Free Kids Act of 2010](#); 7 C.F.R. Parts 210 and 235.
 105 ILCS 5/2-3.62, 5/10-20.17a, 5/10-20.61, 5/10-22.6(c-5), 5/10-22.39, 5/10-23.12, 5/22-80(h), and 5/24-5.
 105 ILCS 25/1.15, Interscholastic Athletic Organization Act.
 105 ILCS 150/25, Seizure Smart School Act.
 105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act.
 325 ILCS 5/4, Abused and Neglected Child Reporting Act.
 745 ILCS 49/, Good Samaritan Act.
 775 ILCS 5/2-109, Ill. Human Rights Act.
 23 Ill.Admin.Code §§ 22.20, 226.800, and Part 525.
 77 Ill.Admin.Code §527.800.
- CROSS REF.: [2:265 \(Title IX Sexual Harassment Grievance Procedure\)](#), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Environmental Quality of Buildings and Grounds), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:250 (Leaves of Absence), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 6:50 (School Wellness), 6:160 (English Learners), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:270 (Administering Medicines to Students), 7:285 (Food Allergy Management Program), 7:290 (Suicide and Depression Awareness and Prevention), 7:305 (Student Athlete Concussions and Head Injuries)
- ADMIN. PROC.: [2:265-AP1 \(Title IX Sexual Harassment Response\)](#), [2:265-AP2 \(Formal Title IX Sexual Harassment Complaint Grievance Process\)](#), 4:160-AP (Environmental Quality of Buildings and Grounds), 4:170-AP6 (Plan for Responding to a Medical Emergency at an Indoor Physical Fitness Facility), 5:100-AP (Staff Development Program), 5:150-AP (Personnel Records), 6:120-AP4 (Care of Students with Diabetes), 7:250-AP1 (Measures to Control the Spread of Head Lice at School)

Professional Personnel

Terms and Conditions of Employment and Dismissal 1

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board’s goal of having a highly qualified, high performing staff. ²

School Year

Teachers shall work according to the school calendar adopted by the Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days.³ Teachers are not required to work on legal school holidays unless the District has followed applicable State law that allows it to hold school or schedule teachers’ institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski’s birthday); the second Monday in October (Columbus Day); and November 11 (Veterans’ Day). ⁴

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¹ State or federal law controls this policy’s content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The local collective bargaining agreement may contain provisions that exceed these requirements. In such cases, the board policy should be amended to state, “Please refer to the applicable collective bargaining agreement.”

Evaluation, tenure, and dismissals changed significantly from 2013 to 2016 as P.A.s 96-861, 97-8, and 98-513 were implemented. These public acts are referred to as *Education Reform* or *Education Reform Acts*.

² This paragraph is consistent with the IASB’s *Foundational Principles of Effective Governance*. Boards have three options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

³ 105 ILCS 5/10-19, amended by P.A.s. 101-12 and 101-643. See 6:20, *School Year Calendar and Day*.

⁴ 105 ILCS 5/24-2(b). See 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on Good Friday unconstitutional. 105 ILCS 5/24-2, amended by P.A. 101-642, prohibits districts from making a deduction “from the time or compensation of a school employee on account of any legal or special holiday.”

10 ILCS 5/2B-10, added by P.A. 101-642 and 105 ILCS 5/24-2 (e), amended by P.A. 101-642, designates 2020 Election Day on 11-3-2020 as a legal school holiday for purposes of 105 ILCS 5/24. It requires all government offices, with the exception of election authorities, to be closed unless authorized to be used as a location for Election Day services or as a polling place. 10 ILCS 5/2B-10, added by P.A. 101-642, requires any school closed under it to make itself available to an election authority as a polling place for 2020 General Election Day and comply with all safety and health practices established by the Ill. Department of Public Health (IDPH).

No waiver exists for 2020 Election Day. 105 ILCS 5/24-24(b) and (e), amended by P.A. 101-642.

School Day

Teachers are required to work the school day adopted by the Board.⁵ Teachers employed for at least four hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer.⁶

The District accommodates employees who are nursing mothers according to provisions in State and federal law.⁷

Salary

Teachers shall be paid according to the salaries fixed by the Board, but in no case less than the minimum salary provided by the School Code.⁸ Teachers shall be paid at least monthly on a 10- or 12-month basis.⁹

Assignments and Transfers

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments.¹⁰ In order of priority, assignments shall be made based on the District's needs and best interests, employee qualifications, and employee desires.

School Social Worker Services Outside of District Employment

School social workers may not provide services outside of their District employment to any student(s) attending school in the District. *School social worker* has the meaning stated in 105 ILCS 5/14-1.09a.¹¹

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⁵ A school day is required to consist of a minimum of five clock hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a) in order to qualify as a full day of attendance. 105 ILCS 5/10-19.05(a) ~~and (j-5)~~, added by P.A. 101-12 ~~and amended by P.A. 101-643~~. See www.isbe.net/school-calendar for ISBE's instructional day changes notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12 ~~and amended by P.A. 101-643~~, for additional exceptions to the attendance calculation.

⁶ 105 ILCS 5/24-9.

⁷ 740 ILCS 137/; 820 ILCS 260/, amended by P.A. 100-1003. Ill. law requires more of employers than federal law. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

⁸ 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8, amended by P.A. 101-443, ~~eff. 6-1-20, beginning with the 2020-2021 school year~~, (minimum salary). Salaries are a mandatory subject of collective bargaining. 115 ILCS 5/10. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district's website, if any; and (3) provide this information to ISBE. 105 ILCS 5/10-20.47. According to a Public Access Counselor (PAC) *Informal Mediation* letter interpreting ~~Sec. 7.3 of the Open Meetings Act (OMA) (5 ILCS 120/7.3)~~, an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. 2012 PAC 19808 (Informal Mediation by the Ill. Attorney General's Public Access Counselor (PAC); see PAC Annual Report for 2012 at www.foia.ilattorneygeneral.net/pdf/Public_Access_Counselor_Annual_Report_2012.pdf).

⁹ 105 ILCS 5/24-21.

¹⁰ Districts are required to have a policy on the distribution of the listed assignments. 23 Ill.Admin.Code § 1.420(d).

Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. *Betebenner v. Bd. of Educ.*, 336 Ill.App. 448 (4th Dist. 1949); *Dist. 300 Educ. Assoc. v. Bd. of Educ.*, 31 Ill.App.3d 550 (2nd Dist. 1975); *Lewis v. Bd. of Educ.*, 181 Ill.App. 3d 689 (5th Dist. 1989).

¹¹ Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a, amended by P.A. 100-356, prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete "~~5/10-20.650, 5/14-1.09a~~," from the Legal References if the board deletes this subhead.

Dismissal

The District will follow State law when dismissing a teacher. ¹²

Evaluation

The District's teacher evaluation system will be conducted under the plan developed pursuant to State law. ¹³

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¹² All dismissal laws in the chart below were amended by the *Education Reform Acts*. ~~Beginning with 2020-2021 school year,~~ 105 ILCS 5/24A-5.5, added by P.A. 101-591, requires districts to develop and implement a local appeals process for unsatisfactory ratings issued to teachers under 105 ILCS 5/24A-5, amended by P.A. 101-643. Districts must: (1) develop the process in cooperation with the bargaining unit or teachers, if applicable, and (2) include an assessment of the original rating by a panel of qualified evaluators agreed to by the PERA joint committee (105 ILCS 5/24A-4(b)).

Non-tenure Teacher Discharge	105 ILCS 5/24-11, <u>amended by P.A. 101-643</u>
Tenured and Non-tenure Teachers Reduction in Force	105 ILCS 5/24-12(b), <u>amended by P.A. 101-643</u> , and (c)
Tenured Teacher Discharge Where Cause Remediable	105 ILCS 5/24-12(d) (prior reasonable warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Where Cause Irremediable	105 ILCS 5/24-12(d) (no prior warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Failure to complete remediation plan with a rating of <i>Proficient</i>	105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation) 105 ILCS 5/24-12(d)(1), <u>amended by P.A. 101-643</u> (no prior warning required if cause(s) were subject of remediation plan) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge - Optional Alternative Evaluative Dismissal Process for PERA Evaluation Failure to complete remediation plan with a <i>Proficient</i> or better rating 105 ILCS 5/24A-2.5	105 ILCS 5/24-16.5(d) (provide written notice) 105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates) 105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)
Tenured Teacher Discharge <i>Unsatisfactory</i> PERA evaluation within 36 months of completing a remediation plan 105 ILCS 5/24A-2.5	105 ILCS 5/24A-5(n) (forego remediation and proceed to dismissal) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Educational Support Personnel Employees (non-licensed)	105 ILCS 5/10-23.5, amended by PA. 101-46
Probationary Teacher (non-tenure teacher)	105 ILCS 5/24-11, <u>amended by P.A. 101-643</u>

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. Central City Educ. Assoc. v. IELRB, 149 Ill.2d 496 (Ill. 1992).

Teacher RIF procedures were changed by 105 ILCS 5/24-12, amended by P.A. 101-643. See *PERA Overview for School Board Members*, question 13, "What is the process for selecting teachers for a reduction in force/layoff (RIF)" at: www.iasb.com/law/PERAoverview.pdf.

According to a binding opinion from the Ill. Public Access Counselor, a board must identify an employee by name in a motion to dismiss him or her. PAO 13-16. As this may be a significant change in practice with possible other legal consequences, a board should consult with the board attorney on this issue before dismissing employee.

¹³ Teacher evaluation plans are covered in *PERA Overview for School Board Members* at: www.iasb.com/law/PERAoverview.pdf.

On an annual basis, the Superintendent will provide the Board with a written report which outlines the results of the District's teacher evaluation system.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.65, 5/14-1.09a, 5/22.4, 5/24-16.5, 5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.
820 ILCS 260/1 et seq.
23 Ill.Admin.Code Parts 50 (Evaluation of Educator Licensed Employees) and 51 (Dismissal of Tenured Teachers).
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532(1985).

CROSS REF.: 5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar and Day)

DRAFT

Professional Personnel

Substitute Teachers 1

The Superintendent may employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher must hold either a valid teaching or substitute license or short-term substitute license and may teach in the place of a licensed teacher who is under contract with the Board.² There is no limit on the number of days that a substitute teacher may teach in the District during the school year, except as follows:³

1. A substitute teacher holding a substitute license may teach for any one licensed teacher under contract with the District only for a period not to exceed 90 paid school days in any one school term.
2. A teacher holding a Professional Educator License⁴ or Educator License with Stipulations⁵ may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 paid school days.
3. A short-term substitute teacher holding a short-term substitute teaching license may teach for any one licensed teacher under contract with the District only for a period not to exceed five consecutive school days.⁶

The Illinois Teachers' Retirement System (TRS) limits a substitute teacher who is a TRS annuitant to substitute teaching for a period not to exceed 120 paid days or 600 paid hours in each school year, but

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¹ State law controls this policy's content. Policy 5:30, *Hiring Process and Criteria*, contains the requirements for pre-employment investigations, e.g., a fingerprint based criminal history records check. See also 5:30-AP2, *Investigations*. Each board may require new substitute teacher employees to furnish evidence of physical fitness to perform duties assigned and must require new substitute teacher employees to furnish evidence of freedom from communicable disease. 105 ILCS 5/24-5(b-5), added by P.A. 100-855. Evidence may consist of a physical examination, which must be performed within 90 days before the time it is presented to the board, and the substitute teacher bears the cost of the physical examination. Id. A new or existing substitute teacher may also be subject to additional health examinations as required by the Ill. Dept. of Public Health or by order of a local public health official. Id.

² 23 Ill.Admin.Code §1.790(a)(2), ~~added by 41 Ill.Reg. 6924~~, requires that any individual who serves as a substitute teacher for driver's education be endorsed for driver's education pursuant to 23 Ill.Admin.Code §25.100(k), ~~amended at 42 Ill.Reg. 8884~~.

³ Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3), amended by P.A. 100-596; 23 Ill.Admin.Code §§1.790, ~~amended at 42 Ill.Reg. 11551~~; and 23 Ill.Admin.Code §25.520, ~~amended at 42 Ill.Reg. 8930~~.

⁴ Professional educator licenses are governed by 105 ILCS 5/21B-20(1) and 23 Ill.Admin.Code Part 25, ~~amended at 42 Ill.Reg. 8830~~.

⁵ Educator licenses with stipulations are governed by 105 ILCS 5/21B-20(2), amended by P.A. 100-596, and 23 Ill.Admin.Code Part 25, ~~amended at 42 Ill.Reg. 8830~~. 105 ILCS 5/21B-20(2)(E), amended by P.A. 100-13, permits an individual who holds a valid career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms. Similarly, 105 ILCS 5/21B-20(2)(F), amended by P.A. 100-13, permits an individual who holds a provisional or part-time provisional career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms.

⁶ 105 ILCS 5/21B-20(4), added by P.A. 100-596. Districts may not hire a short-term substitute teacher for teacher absences lasting six or more days. Id.

not more than 100 paid days in the same classroom. Beginning July 1, 2021⁹, a substitute teacher who is a TRS annuitant may substitute teach for a period not to exceed 100 paid days or 500 paid hours in any school year, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists.⁷

The School Board establishes a daily rate of pay for substitute teachers. Substitute teachers receive only monetary compensation for time worked and no other benefits.⁸

Short-Term Substitute Teachers⁹

A short-term substitute teacher must hold a valid short-term substitute teaching license and have completed the District's short-term substitute teacher training program.¹⁰ Short-term substitutes may teach no more than five consecutive school days for each licensed teacher who is under contract with the Board.¹¹

Emergency Situations¹²

A substitute teacher may teach when no licensed teacher is under contract with the Board if the District has an emergency situation as defined in State law. During an emergency situation, a substitute teacher is limited to 30 calendar days of employment per each vacant position. The Superintendent shall notify the appropriate Regional Office of Education within five business days after the employment of a substitute teacher in an emergency situation.

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⁷ 40 ILCS 5/16-118, amended by P.A.s 100-596 and 101-645 (specifying permissible paid days and hours for TRS annuitants), and 16-150.1, amended by P.A. 101-49 (TRS annuitants may return to teaching in a subject shortage area until 6-30-21). Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

⁸ If a board provides substitute teachers other benefits, it may consider listing them here.

⁹ 105 ILCS 5/21B-20(4), added by P.A. 100-596, governs Short-Term Substitute Teaching Licenses, which may be issued from 7-1-18 until 6-30-23. Short-Term Substitute Teaching Licenses are not eligible for endorsements. *Id.* Applicants for a Short-Term Substitute Teaching License must hold an associate's degree or have completed at least 60 credit hours from a regionally accredited institution of higher education. Individuals who have had their Professional Educator License or Educator License with Stipulations suspended or revoked are not eligible to be short-term substitutes. *Id.* Short-term substitutes may not be hired for teacher absences lasting six or more days. *Id.* 105 ILCS 5/21B-20(4) repeals on 7-1-23.

¹⁰ 105 ILCS 5/10-20.68, added by P.A. 100-596, requires boards to conduct this training. This requirement provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for a short-term substitute teacher training program that provides individuals who hold a Short-Term Substitute Teaching License with information on curriculum, classroom management techniques, school safety, and district and building operations. See also 5:220-AP, *Substitute Teachers*, and f/n 3 in 5:220-AP. These expectations will be most effective when they reflect local conditions and circumstances. Training and curriculum for a short-term substitute teacher training program may be subjects of mandatory collective bargaining, therefore consulting with the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new programs for staff without first offering to negotiate them with the applicable exclusive bargaining representative.

School boards may choose to also offer this training program to individuals who hold a Substitute Teaching License and/or substitute teachers holding a Professional Educator License. This provision repeals on 7-1-23.

¹¹ See f/n 6.

¹² 105 ILCS 5/21B-20(3). An *emergency situation* is defined as one where an unforeseen vacancy has occurred and (i) a teacher is unable to fulfill his or her contractual duties, or (ii) the district's teacher capacity needs exceed previous indications and the district is actively engaged in advertising to hire a fully licensed teacher for the vacant position.

Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center."

LEGAL REF.: 105 ILCS 5/10-20.68, 5/21B-20(2), 5/21B-20(3), and 5/21B-20(4).
23 Ill.Admin.Code §1.790 (Substitute Teacher) and §25.520 (Substitute Teaching License).

CROSS REF.: 5:30 (Hiring Process and Criteria)

DRAFT

Educational Support Personnel

Sick Days, Vacation, Holidays, and Leaves 1

Each of the provisions in this policy applies to all educational support personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

Sick and Bereavement Leave 2

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy’s content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy’s subject matter is superseded by a bargaining agreement, the board policy may state, “Please refer to the applicable collective bargaining agreement.”

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee’s spouse, parent, or child; (4) the employee’s own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is on (or has been notified of an impending call to) *covered active duty* in the Armed Forces; and (6) to care for the employee’s spouse, child, parent, or next of kin who is a covered service member with a serious injury or illness. The definition of *covered servicemember* includes a veteran “who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness” if the veteran was a member of the Armed Forces “at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.” 29 U.S.C. §2611. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee’s FMLA entitlement. 29 C.F.R. §825.207. See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities, but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

² This section contains the minimum benefits provided by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. The School Code does not address whether an employee’s 10 paid sick leave days are available upon employment, accrued over months, or after working for a certain period of time, e.g., one year. Also be aware that the Employee Sick Leave Act (820 ILCS 191/) allows employees to use employer-provided sick leave to care for an ill or injured *family* member or to attend a medical appointment with a family member. The law defines family members as a child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* at 191/10(b). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid:

1. Employees accumulating sick time on a full-time basis when they are truly working part-time hours;
2. Inconsistent treatment; and
3. Inaccurate reporting to IMRF (credit is given for full day unused sick days upon retirement). 40 ILCS 5/7-139(a)(8).

workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year.³

Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption. The Superintendent and/or designee shall monitor the use of sick leave.

As a condition for paying sick leave after three days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) a licensed advanced practice registered nurse, (4) a licensed physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway.⁴

Vacation⁵

Twelve-month employees shall be eligible for paid vacation days according to the following schedule:

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³ As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6. The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

The following optional provisions apply to boards that want to address the IMRF's requirement that public bodies must have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement. See 40 ILCS 5/7-139(a)(8). See also IMRF General Memorandum #555 at: www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555.

Option 1: No collective bargaining agreement applies and the board wants to publicize its written plan. Insert the following sentence: This policy is the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon a District employee's retirement under the Ill. Municipal Retirement Fund.

Option 2: A local collective bargaining agreement contains the written plan and the board wants to publicize it. Insert the following sentence: Please refer to the applicable collective bargaining agreement(s) for the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon an employee's retirement under the Ill. Municipal Retirement Fund.

Option 3: A district maintains two separate sick leave plans, one for employees under a collective bargaining agreement, and one for non-unionized employees. Insert the text for both Option 1 and Option 2.

Note: If Options 1, 2, or 3 are chosen, add 40 ILCS 5/7-139 to the Legal References. If the board does not have a written sick leave plan for purposes of IMRF sick leave to service credit conversion or does not wish to include it in the policy, do not include any of the options above or add the citation to the Legal References.

⁴ 105 ILCS 5/24-6, amended by P.A. 100-513.

⁵ State law does not require districts to give employees vacations.

<u>Length of Employment</u>		<u>Monthly Accumulation</u>	<u>Maximum Vacation Leave Earned Per Year</u>
<u>From:</u>	<u>To:</u>		
Beginning of year 2	End of year 5	0.83 Days	10 Days per year
Beginning of year 6	End of year 15	1.25 Days	15 Days per year
Beginning of year 16	End of year	1.67 Days	20 Days per year

Part-time employees who work at least half-time are entitled to vacation days on the same basis as full-time employees, but the pay will be based on the employee's average number of part-time hours per week during the last vacation accrual year. The Superintendent will determine the procedure for requesting vacation.

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. ⁶

Holidays ⁷

Unless the District has a waiver or modification of the School Code pursuant to Section 2-3.25g or 24-2(b) allowing it to schedule school on a [legal school](#) holiday listed below, District employees will not be required to work on:

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Columbus Day
Abraham Lincoln's Birthday	Veteran's Day
Casimir Pulaski's Birthday	2020 Election Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

A holiday will not cause a deduction from an employee's time or compensation. The District may require educational support personnel to work on a school holiday during an emergency or for the continued operation and maintenance of facilities or property.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁶ Required by 820 ILCS 115/5 and 56 Ill.Admin.Code §300.520 (Earned Vacations).

⁷ Holidays are listed in 105 ILCS 5/24-2(a), (e), amended by P.A. 101-642, and 10 ILCS 5/2B-10, added by P.A. 101-642. For information on the waiver process allowed by 105 ILCS 5/24-2(b), see 2:20-E, *Waiver and Modification Request Resource Guide*. Holidays not specified in the [School or Election Codes statute](#) may be added to the policy; however, boards adding additional holidays should monitor and review to ensure the list remains current.

A State-mandated school holiday on Good Friday is unconstitutional according to [Metzl v. Leininger](#), 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may be permissible for those districts able to demonstrate that remaining open would be a waste of educational resources because of widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a spring holiday rationale or ensuring that it falls within spring break. School districts should discuss their options, including the collective bargaining implications, with their board attorney.

[For more information about 2020 Election Day, see the discussion in f/n 4 in 5:200, Terms and Conditions of Employment and Dismissal.](#)

Personal Leave ⁸

Full-time educational support personnel have one paid personal leave day per year. The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, a personal leave request should be submitted to the Building Principal three days before the requested date.
2. No personal leave day may be used immediately before or immediately after a holiday, or during the first and/or last five days of the school year, unless the Superintendent grants prior approval.
3. Personal leave may not be used in increments of less than one-half day.
4. Personal leave is subject to any necessary replacement's availability.
5. Personal leave may not be used on an in-service training day and/or institute training days.
6. Personal leave may not be used when the employee's absence would create an undue hardship.

Leave to Serve as a Trustee of the Illinois Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Ill. Municipal Retirement Fund in accordance with 105 ILCS 5/24-6.3. ⁹

Other Leaves

Educational support personnel receive the following leaves on the same terms and conditions granted professional personnel in Board policy 5:250, *Leaves of Absence*:

1. Leaves for Service in the Military and General Assembly. ¹⁰
2. School Visitation Leave. ¹¹
3. Leaves for Victims of Domestic Violence, Sexual Violence, or Gender Violence. ¹²
4. Child Bereavement Leave. ¹³
5. Leave to serve as an election judge. ¹⁴

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⁸ State law does not address personal leave. It is not uncommon for boards to grant educational support personnel the same number of personal leave days as are granted to professional staff.

⁹ Required by 105 ILCS 5/24-6.3. A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See 5:250, *Leaves of Absence*.

¹⁰ Military leave is governed by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/, added by P.A. 100-1101, streamlining several job-related protection laws into one statute, mandating leave for *active service* and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 *et seq.*).

Granting General Assembly leave to ESPs is optional.

¹¹ 820 ILCS 147/, amended by P.A. 101-486, ~~eff. 8-1-20~~. See policy 5:250, *Leaves of Absence*, and 5:250-AP, *School Visitation Leave*.

¹² Required by Victims' Economic Security and Safety Act (820 ILCS 180/, amended by P.A. 101-221, ~~eff. 1-1-20~~) and 56 Ill.Admin.Code Part 280. Important information about this leave is discussed in f/ns 20, 21, and 22 of 5:250, *Leaves of Absence*.

¹³ 820 ILCS 154/. Important information about this leave is discussed in f/n 5 of 5:250, *Leaves of Absence*.

¹⁴ 10 ILCS 5/13-2.5.

LEGAL REF.: 105 ILCS 5/10-20.7b, 5/24-2, and 5/24-6.
330 ILCS 61/, Service Member Employment and Reemployment Rights Act.
820 ILCS 147, School Visitation Rights Act.
820 ILCS 154/, Child Bereavement Leave Act.
820 ILCS 180/, Victims' Economic Security and Safety Act.
School Dist. 151 v. ISBE, 154 Ill.App.3d 375 (1st Dist. 1987); Elder v. Sch. Dist. No.127 1/2, 60 Ill.App.2d 56 (1st Dist. 1965).

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:250 (Leaves of Absence)

DRAFT

Students

Equal Educational Opportunities 1

Equal educational and extracurricular opportunities shall be available for all students without regard to color, race, nationality, religion, sex, sexual orientation, ancestry, age, physical or mental disability, gender identity,² status of being homeless, immigration status, order of protection status, actual or potential marital or parental status, including pregnancy.³ Further, the District will not knowingly enter into agreements with any entity or any individual that discriminates against students on the basis of sex or any other protected status, except that the District remains viewpoint neutral when granting access to school facilities under School Board policy 8:20, *Community Use of School*

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law requires this subject matter be covered by policy and controls this policy's content.

² Adopting separate policies or inserting policy statements about accommodations and inclusion of transgender students in the educational program are unsettled areas of the law. Some lawyers believe doing so may open boards to equal protection challenges for not creating separate policies for other protected statuses, e.g., race, nationality, religion, etc. [Executive Order \(EO\) 2019-11, titled "Strengthening Our Commitment to Affirming and Inclusive Schools" established the Affirming and Inclusive Schools Task Force \(Task Force\) to identify strategies and best practices for ensuring welcoming, safe, supportive, and inclusive school environments for transgender, nonbinary, and gender nonconforming students. The Task Force delivered a report that served as the basis for two non-regulatory guidance documents entitled *Supporting Transgender, Nonbinary and Gender Nonconforming Students* and *Sample District Policy and Administrative Procedures at www.isbe.net/supportallstudents*. The Ill. State Board of Education \(ISBE\) hosts these documents on its website.](#)

Consult the board attorney if your board wishes to adopt a separate policy or insert policy statements about accommodations and inclusion of transgender students.

[For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendation into this policy, insert the following in place of "gender identity.": gender, gender identity \(whether or not traditionally associated with the student's sex assigned at birth\), gender expression.](#)

[If the board inserts this option, it must also insert the options in f/n 7, below and in f/n 2 of *sample policy 7:20, Harassment of Students Prohibited*. BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:20, HARASSMENT OF STUDENTS PROHIBITED.](#)

See 7:10-AP1, *Accommodating Transgender Students or Gender Non-Conforming Students*, for a case-by-case procedure that school officials may use when a student requests an accommodation based upon his or her gender identity.

For a list of policies that address the equal educational opportunities, health, safety, and general welfare of students within the District, see 7:10-E, *Equal Educational Opportunities Within the School Community*.

³ Many civil rights laws guarantee equal education opportunities; see citations in the Legal References.

In 23 Ill.Admin.Code §1.240, ISBE states that "no school system may deny access to its schools or programs to students who lack documentation of their immigration status or legal presence in the United States, and no school system may inquire about the immigration status of a student (*Plyler v. Doe*, 457 U.S. 202 (1982))."

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A) makes *order of protection status* a protected category.

The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2.

*Facilities.*⁴ Any student may file a discrimination grievance by using Board policy 2:260, *Uniform Grievance Procedure.*⁵

Sex Equity⁶

No student shall, based on sex, sexual orientation, or gender identity⁷ be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, advantage, or denied equal access to educational and extracurricular programs and activities.

Any student may file a sex equity complaint by using Board policy 2:260, *Uniform Grievance Procedure.* A student may appeal the Board's resolution of the complaint to the Regional

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⁴ 23 Ill.Admin.Code §200.40(b) prohibits entering into agreements with entities that discriminate against students on the basis on sex. Section 200.80(a)(4) contains an exception for single sex youth organizations, e.g., Boy and Girl Scouts. Note that the U.S. Supreme Court refused to apply N.J.'s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scouts' freedom of expressive association. Boy Scouts of America v. Dale, 530 U.S. 640 (2002). When deciding whether to allow non-school groups to use its facilities, a public school district may not engage in viewpoint discrimination. Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).

⁵ Districts must have a grievance procedure. See Legal References following policy. Absent a specific statute or rule, there is no consensus on whether students have the right to appeal a board's decision to the Regional Superintendent and thereafter to the State Superintendent pursuant to 105 ILCS 5/2-3.8.

⁶ Every district must have a policy on sex equity. 23 Ill.Admin.Code §200.40(b). The IHRA, Public Accommodation section, prohibits schools from: (1) failing to enroll an individual, (2) denying a individual access to its facilities, goods, or services, or (3) failing take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5/5-102.2), on the basis of the individual's sex or sexual orientation, among other classifications (775 ILCS 5/5-101). Districts must periodically evaluate their policies and practices to identify and eliminate sex discrimination as well as evaluate course enrollment data to identify disproportionate enrollment based on sex. In-service training for all staff members is required. 23 Ill.Admin.Code §1.420.

With some exceptions, Title IX of the Education Amendments of 1972 (Title IX) guarantees that "[n]o person in the United States shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance..." 20 U.S.C. §§1681(a). Equal participation and equal opportunity in athletics is addressed in the U.S. Dept. of Education's implementing rules. 34 C.F.R. §106.41. Generally, when a school district offers a team for one gender but not for the other, a member of the excluded gender is allowed to try out for the team unless the sport is a *contact sport*. Contact sports are boxing, wrestling, rugby, ice hockey, football, basketball, and other sports involving bodily contact. The rules also list the factors that determine whether equal opportunities are available to both genders. These include: whether the selection of athletics accommodates the interests and abilities of both genders; equipment and supplies; scheduling; opportunity to receive coaching and academic tutoring; locker rooms, practice facilities, and fields; and publicity. Title IX prohibits any person from sexually harassing a student. See sample policy 2:265, Title IX Sexual Harassment Grievance Procedure, for further discussion.

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-29, ~~eff. 1-1-18~~, requires public schools to provide reasonable accommodations to breastfeeding students. See sample administrative procedure 7:10-AP-2, Accommodating Breastfeeding Students, for specific *reasonable accommodations* under Illinois law.

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-163, ~~eff. 1-1-18~~, requires school districts to make feminine hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in the bathrooms of school buildings serving students in grades 6 through 12. **Note:** The statute does not delineate between types of bathrooms (student, staff, girls, boys, unisex, etc.). Consult with the board attorney about implementing this law.

⁷ For boards that want to incorporate ISBE's Sample District Policy and Administrative Procedures policy recommendations into this policy (see f/n 2 above), insert:

1. In place of "or gender identity" as follows: "~~or gender identity, or gender expression~~".
2. The following sentence as the second sentence of this subhead: "Students shall be supported in a manner consistent with their gender identity. This will include, but not be limited to, use of restrooms, locker rooms, and other facilities that correspond with the student's gender identity."

Superintendent (pursuant to 105 ILCS 5/3-10) and, thereafter, to the State Superintendent of Education (pursuant to 105 ILCS 5/2-3.8).⁸

Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator, who also serves as the District's Title IX Coordinator.⁹ The Superintendent and Building Principal shall use reasonable measures to inform staff members and students of this policy and related grievance procedures.¹⁰

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972;
implemented by 34 C.F.R. Part 106.
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).
Ill. Constitution, Art. I, §18.
105 ILCS 5/3.25b, 5/3.25d(b), 5/10-20.12, 5/10-20.60 (P.A.s 100-29 and 100-163,
final citations pending), 5/10-22.5, and 5/27-1.
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.
775 ILCS 35/5, Religious Freedom Restoration Act.
23 Ill.Admin.Code §1.240 and Part 200.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:130 (Student Rights and Responsibilities), 7:160 (Student Appearance), 7:165 (Student Uniforms), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:250 (Student Support Services), 7:330 (Student Use of Buildings - Equal Access), 7:340 (Student Records), 8:20 (Community Use of School Facilities)

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁸ Districts must have a grievance procedure and must tell students that they may appeal a board's resolution of a sex equity complaint to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §-200.40. Student complaints regarding breastfeeding accommodations must also be processed in accordance with these procedures. See sample policy 2:260, Uniform Grievance Procedure, at f/n 58.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

⁹ Required by regulations implementing Title IX. 34 C.F.R. Part 106.8(a). See f/n 19 in sample policy 2:260, Uniform Grievance Procedure. If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, amend this sentence to state: "The Superintendent shall appoint a Nondiscrimination Coordinator and a Title IX Coordinator."

¹⁰ Required by regulations implementing Title IX. 34 C.F.R. Part 106; 23 Ill.Admin.Code §200.40. Comprehensive faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Faculty handbooks may contain working conditions and be subject to mandatory collective bargaining. The Illinois Principals Association maintains a handbook service that coordinates with PRESS material, Online Model Student Handbook (MSH), at: www.ilprincipals.org/resources/model-student-handbook.

Students

Harassment of Students Prohibited 1

Bullying, Intimidation, and Harassment Prohibited

No person, including a School District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity²; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student’s educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of

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¹ State or federal law requires this subject matter be covered by policy, controls this policy’s content, and 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-531, requires that every two years, each district within an Illinois county served by an accredited Children’s Advocacy Center review all its existing sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see sample policy 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment.

This policy’s list of protected classifications is identical to the list in 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103, amended by P.A. 101-221, ~~eff. 1-1-20~~; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, Equal Educational Opportunities, is different – it does not include the classifications that are exclusively identified in the bullying statute. 105 ILCS 5/27-23.7.

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of sexual orientation and gender identity. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. Sexual orientation is defined as the “actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person’s designated sex at birth.” 775 ILCS 5/1-103(O-1). Gender identity is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A), added order of protection status to its list of protected categories. The IHRA’s jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2.

² See f/n 2 in sample policy 7:10, Equal Educational Opportunities, for a discussion about Executive Order (EO) 2019-11 establishing the Affirming and Inclusive Schools Task Force (Task Force) that made policy and administrative procedure recommendations to the Ill. State Board of Education (ISBE) that are discussed in a its publication Sample District Policy and Administrative Procedures at www.isbe.net/supportallstudents.

For boards that want to incorporate ISBE’s sample policy recommendation, insert the following in place of “gender identity”: gender; gender identity (whether or not traditionally associated with the student’s sex assigned at birth).

If the board inserts this option, it must also insert the options in f/ns 2 and 7 of policy 7:10, Equal Educational Opportunities. BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:10, EQUAL EDUCATIONAL OPPORTUNITIES.

property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above.³

Commented [MB1]: Formerly footnote 2.

Sexual Harassment Prohibited

The District shall provide an educational environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law. Sexual harassment of students is prohibited.⁴ See policies 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 2:260, *Uniform Grievance Procedure*.

Commented [MB2]: Formerly footnote 3.

Any person, including a district employee or agent, or student, engages in sexual harassment whenever he or she makes sexual advances, requests sexual favors, and/or engages in other verbal or physical conduct, including sexual violence, of a sexual or sex-based nature, imposed on the basis of sex, that:

1. Denies or limits the provision of educational aid, benefits, services, or treatment; or that makes such conduct a condition of a student's academic status; or

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³ This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. *West v. Derby Unified Sch. Dist.*, 206 F.3d 1358 (10th Cir. 2000).

⁴ Two laws apply to sexual harassment of students in Illinois. Title IX of the Education Amendments of 1972 (Title IX) and the IHRA prohibits discrimination on the basis of sex and sexual harassment in any educational program or activity receiving federal financial assistance. 20 U.S.C. §1681. Title IX defines sexual harassment as conduct on the basis of sex that meets one or more of the following: (1) a district employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal access to the District's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in federal law. 34 C.F.R. §106.30. For purposes of Title IX, sexual harassment of students includes acts of sexual violence. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*. Consult the board attorney to ensure the non-discrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon sexual violence under Title IX's sexual harassment umbrella. Guidance See sample procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*. documents highlight appropriate responses to sexual violence under Title IX. See ¶n 7 in policy 2:260, *Uniform Grievance Procedure* for a listing and links to these documents.

The sample policy's definition of sexual harassment does not distinguish between welcome and unwelcome behaviors—each is prohibited if it has a result described in sub-paragraph 1 or 2. See *Mary M. v. North Lawrence Community Sch. Corp.*, 131 F.3d 1220 (7th Cir. 1997) (An eighth grade student did not need to show that a school employee's sexual advances were unwelcome in order to prove sexual harassment.)

The IHRA prohibits any district employee or agent from sexually harassing a student, and defines sexual harassment as any unwelcome sexual advances or requests for sexual favors made to a student, or any conduct of a sexual nature toward a student, when: (1) such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment; or (2) the district employee or agent either explicitly or implicitly makes the student's submission to or rejection of such conduct as a basis for making various enumerated education-related determinations. 775 ILCS 5/5A-201(E).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. *Gebser v. Lago Vista Independent Sch. Dist.*, 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999). The Ill. Dept. of Human Rights investigates charges of sexual harassment in violation of the IHRA, and it is a civil rights violation when a school district fails to take corrective remedial or disciplinary action against an employee the district knows engaged in to stop severe or pervasive sexual harassment of an individual based upon a protected category. 775 ILCS 5/5A-102.2.

~~2. Has the purpose or effect of:~~

- ~~a. Substantially interfering with a student's educational environment;~~
- ~~b. Creating an intimidating, hostile, or offensive educational environment;~~
- ~~c. Depriving a student of educational aid, benefits, services, or treatment; or~~
- ~~d. Making submission to or rejection of such conduct the basis for academic decisions affecting a student.~~

~~The terms *intimidating*, *hostile*, and *offensive* include conduct that has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities. The term *sexual violence* includes a number of different acts. Examples of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.~~

Making a Report or Complaint

Students are encouraged to promptly report claims or incidences of bullying, intimidation, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any ~~staff member~~employee with whom the student is comfortable speaking. ~~A student may choose to report to an employee-person of the student's same sex/gender.~~

Commented [MB3]: Formerly footnote 4.

~~An allegation that a student was a victim of any prohibited conduct perpetrated by school personnel, including a school vendor or volunteer, shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*, in addition to any response required by this policy. Reports under this policy will be considered a report under Board policy 2:260, *Uniform Grievance Procedure*, and/or Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. The Nondiscrimination Coordinator and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure.⁶~~

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁵ Using "or any ~~staff member~~employee with whom the student is comfortable speaking" is consistent with 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, ensures compliance with Title IX regulations providing that "any employee" of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment is deemed to have *actual knowledge* which triggers a district's duty to respond. 34 C.F.R. §106.30. By including "any ~~staff member~~employee" in this list, this policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

⁶ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "The Nondiscrimination Coordinator, Title IX Coordinator, and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure."

~~7~~ At least one of these individuals will be female, and at least one will be male. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. ~~8~~

Commented [MB4]: Formerly footnote 5.

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy by including:

1. For students, age-appropriate information about the contents of this policy in the District's student handbook(s), on the District's website, and, if applicable, in any other areas where policies, rules, and standards of conduct are otherwise posted in each school. ~~9~~

Commented [MB5]: Formerly footnote 7.

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~~7~~ Title IX regulations require districts to identify the person, address, and telephone number of the individual responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Each district must communicate its bullying policy to students and their parents/guardians. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see [sample policy 7:180](#), *Prevention of and Response to Bullying, Intimidation, and Harassment*.

~~8~~ Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator." supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

2. For staff members, this policy in the appropriate employee handbook(s), if applicable, and/or in any other areas where policies, rules, and standards of conduct are otherwise made available to staff.

Investigation Process

~~Supervisors, Building Principals, or administrators~~ Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.¹⁰ ~~Any employee-supervisor or administrator~~ who fails to promptly comply may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

~~The District shall investigate alleged harassment of students when the Nondiscrimination Coordinator or a Complaint Manager becomes aware of an allegation, regardless of whether a written report or complaint is filed.~~

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee¹¹ shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged student harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policies 2:260, *Uniform Grievance Procedure*, and/or 7:190, *Student Behavior*, should be initiated, regardless of whether a written report or complaint is filed.

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⁹ In addition to notifying students of ~~the policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*~~, a district must notify them of the name, office address, email address, and telephone number of district's Title IX Coordinator ~~person(s) designated to coordinate the district's compliance with Title IX.~~ 34 C.F.R. ~~Part~~ §106.8(a). 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418, ~~eff. 1-1-20~~, requires districts to maintain and implement an *age-appropriate* policy on sexual harassment that is included in the school district's student handbook, as well as on a district's website and, if applicable, other areas where such information is posted in each school. The law does not expressly state that the age-appropriate policy is for students; however, that is the most logical interpretation. In practice, most districts maintain a student handbook for each building. Because the law only requires one policy, this policy manages the age-appropriate requirement by directing age-appropriate explanations of the policy be included in the building-level student handbook(s). Student handbooks can be developed by the building principals, but should be reviewed and approved by the superintendent and school board.

The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

¹⁰ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager."

¹¹ "Nondiscrimination Coordinator or designee" is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see next paragraph in policy text). If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete "Nondiscrimination" and insert "Title IX" in its place.

Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel¹²

Commented [MB6]: Formerly footnote 8.

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.¹³

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. ~~In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, Title IX Sexual Harassment Grievance Procedure, or policy 2:260, Uniform Grievance Procedure any response required by this policy.~~

Enforcement

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. Any third party who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action ~~up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.~~

Retaliation Prohibited

Retaliation against any person for bringing complaints or providing information about harassment is prohibited (see policies 2:260, Uniform Grievance Procedure, and 2:265, Title IX Sexual Harassment Grievance Procedure).

Students should report allegations of retaliation to the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

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¹² ~~Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited Children's Advocacy Center (CAC). 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531, governs the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC). For a map of accredited CACs, and to identify a CAC that may serve your district, see www.childrensadvocacycentersofillinois.org/about/map. For further discussion see f/n 14 in policy 5:90, *Abused and Neglected Child Reporting*.~~

¹³ ~~105 ILCS 5/22-85(b) (final citation pending), added by P.A. 101-531. For further discussion see f/n 14 in policy 5:90, *Abused and Neglected Child Reporting*.~~

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972-; 34 C.F.R. Part 106.
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.
23 Ill.Admin.Code §1.240 and Part 200.
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).
Franklin v. Gwinnett Co. Public Schs., 503 U.S. 60 (1992).
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).
West v. Derby Unified Sch. Dist. No. 260, 206 F.3d 1358 (10th Cir. 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), [2:265 \(Title IX Sexual Harassment Grievance Procedure\)](#), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

DRAFT

Students

Prevention of and Response to Bullying, Intimidation, and Harassment 1

Bullying, intimidation, and harassment diminish a student’s ability to learn and a school’s ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, national origin, military status, unfavorable discharge status from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic **is prohibited** in each of the following situations: ²

1. During any school-sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

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¹ All districts must have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 100-137. Every two years, each district must review and re-evaluate this policy, make necessary and appropriate revisions, and file the updated policy with ISBE. This sample policy’s first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. 105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280. Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See 7:190, *Student Behavior*; 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. See f/n 7, below.

² This paragraph and its subparts 1-4 are from the bullying prevention statute. 105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240. The protected statuses are mandated by the bullying prevention statute; the list of protected statuses is identical to the list in 7:20, *Harassment of Students Prohibited*.

Definitions from 105 ILCS 5/27-23.7³

Bullying includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

Cyberbullying means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of *bullying*. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

Restorative measures means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, and (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school.

School personnel means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below; each

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³ All definitions are directly from 105 ILCS 5/27-23.7, amended by P.A. 100-137.

numbered requirement, 1-12, corresponds with the same number in the list of required policy components in 105 ILCS 5/27-23.7(b) 1-12. ⁴

1. The District uses the definition of *bullying* as provided in this policy. ⁵
2. Bullying is contrary to State law and the policy of this District. However, nothing in the District’s bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any staff member with whom the student is comfortable speaking. ⁶ Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District named officials or any staff member. The District named officials and all staff members are available for help with a bully or to make a report about bullying. ⁷ Anonymous reports are also accepted.

Nondiscrimination Coordinator: ⁸

Name

Address

Email

Telephone

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁴ As each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)1-12, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

⁵ A board may augment the School Code requirement by using this alternative:

Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying, and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

⁶ The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district Nondiscrimination Coordinator and Complaint Managers is consistent with 2:260, *Uniform Grievance Procedure*. While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. A telephone number for making anonymous reports may also be added.

⁷ 105 ILCS 5/27-23.7(d), amended by P.A. 100-137, requires that “[s]chool personnel available for help with a bully or to make a report about bullying” be made known to parents/guardians, students, and school personnel.

⁸ Sample policy 2:260, *Uniform Grievance Procedure*, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, list the Title IX and Nondiscrimination Coordinators’ names separately in this policy. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

Complaint Managers:

Name	Name
Address	Address
Email	Email
Telephone	Telephone

4. Consistent with federal and State laws and rules governing student privacy rights, the Superintendent or designee shall promptly inform the parent(s)/guardian(s) of every student involved in an alleged incident of bullying and discuss, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. ⁹
5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
 - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
 - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
 - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.
 - d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District’s jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. ¹⁰

6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services. ¹¹

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⁹ 105 ILCS 5/10-20.14 contains a similar requirement. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

¹⁰ This sentence contains requirements found in 105 ILCS 5/27-23.7(d).

¹¹ A grant may be available from the Ill. State Board of Education for the promotion of a safe and healthy learning environment. 105 ILCS 5/2-3.176, added by P.A. 101-438. A list of grant funding opportunities is available at: www.isbe.net/Pages/Grants.aspx.

7. A reprisal or retaliation against any person who reports an act of bullying **is prohibited**. A student's act of reprisal or retaliation will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, knowingly making a false accusation or providing knowingly false information will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
9. The District's bullying prevention and response plan must be based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District's website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must be distributed annually to parents/guardians, students, and school personnel (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty. ¹²
11. The Superintendent or designee shall assist the Board with its evaluation and assessment of this policy's outcomes and effectiveness. This process shall include, without limitation:
 - a. The frequency of victimization;
 - b. Student, staff, and family observations of safety at a school;
 - c. Identification of areas of a school where bullying occurs;
 - d. The types of bullying utilized; and
 - e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. The Superintendent or designee must post the information developed as a result of the policy evaluation on the District's website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: ¹³

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¹² 105 ILCS 5/27-23.7(b)(10), amended by P.A. 100-137.

¹³ The statute requires that the bullying policy *be consistent with* other board policies. The list of policies may be deleted and the following alternative used: "12. The District's bullying prevention plan must be consistent with other Board policies." If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:
 - a. Communicating the District's expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.

- a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.
- b. 2:265, Title IX Sexual Harassment Grievance Procedure. Any person may use this policy to complain about sexual harassment in violation of Title IX of the Education Amendments of 1972.
- ~~b.c.~~ 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- ~~e.d.~~ 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District’s educational program as required by State law.
- ~~e.e.~~ 6:235, *Access to Electronic Networks*. This policy states that the use of the District’s electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- ~~e.f.~~ 7:20, *Harassment of Students Prohibited*. This policy prohibits *any* person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- ~~f.g.~~ 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school sponsored activities, and in vehicles used for school-provided transportation.
- ~~g.h.~~ 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- ~~h.i.~~ 7:310, *Restrictions on Publications; Elementary Schools*, and 7:315, *Restrictions on Publications; High Schools*. These policies prohibit students from and provide consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members. ¹⁴

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- b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
- c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
- d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

¹⁴ For elementary districts, delete: ~~and 7:315, *Restrictions on Publications; High Schools*~~ and delete the Cross Reference to 7:315, *Restrictions on Publications; High Schools*. For high school districts, delete ~~7:310, *Restrictions on Publications; Elementary Schools*, and~~ and delete the Cross Reference to 7:310, *Restrictions on Publications; Elementary Schools*. In both cases, revise the beginning of the sentence to read: “These policies prohibit students from and provides.”

LEGAL REF.: 405 ILCS 49/, Children’s Mental Health Act.
105 ILCS 5/10-20.14, 5/24-24, and 5/27-23.7.
23 Ill.Admin.Code §1.240 and §1.280.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), [2:265 \(Title IX Sexual Harassment Grievance Procedure\)](#), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (Food Allergy Management Program), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools)

DRAFT

Students

Teen Dating Violence Prohibited 1

Engaging in teen dating violence that takes place at school, on school property, at school-sponsored activities, or in vehicles used for school-provided transportation is prohibited.² For purposes of this policy, the term *teen dating violence* occurs whenever a student who is 13 to 19 years of age uses or threatens to use physical, mental, or emotional abuse to control an individual in the dating relationship; or uses or threatens to use sexual violence in the dating relationship.³

The Superintendent or designee shall develop and maintain a program to respond to incidents of teen dating violence that:⁴

1. Fully implements and enforces each of the following Board policies:⁵
 - a. 2:260, Uniform Grievance Procedure. This policy provides a method for any student, parent/guardian, employee, or community member to file a complaint if he or she believes that the School Board, its employees, or its agents have violated his or her rights under the State or federal Constitution, State or federal statute, Board policy, or various enumerated bases.
 - b. 2:265, Title IX Sexual Harassment Grievance Procedure. This policy prohibits any person from engaging in sexual harassment in violation of Title IX of the Education Amendments of 1972. Prohibited conduct includes but is not limited to sexual assault, dating violence, domestic violence, and stalking.
 - a-c. 7:20, Harassment of Students Prohibited. This policy prohibits any person from harassing, intimidating, or bullying a student based on the student's actual or perceived characteristics of sex; sexual orientation; gender identity; and gender-related identity or expression (this policy includes more protected statuses).

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¹ All school boards must have a policy on teen dating violence. 105 ILCS 110/3.10. This sample policy is designed to align with a district's already-existing procedures for reporting bullying and school violence. See f/n 7. The curriculum components for teen dating violence education, which apply to districts with students enrolled in grades 7 through 12, are listed in 6:60-AP, *Comprehensive Health Education Program*.

² 105 ILCS 110/3.10(b)(1). School officials must proceed carefully before disciplining a student for out-of-school conduct. A school's authority over off-campus conduct is much more limited than incidents that occur on school grounds. However, school officials may generally: (1) remove a student from extracurricular activities when the conduct code for participation requires students to conduct themselves at all times as good citizens and exemplars of the school (see [sample policy 7:240, Conduct Code for Participants in Extracurricular Activities](#)); and (2) suspend or expel a student from school attendance when the student's expression causes substantial disruption to school operations.

³ 105 ILCS 110/3.10(a). For districts that wish to broaden the ages (e.g., perhaps include 11-12 year olds in a middle school setting), delete the following phrase from the first sentence: "~~who is 13 to 19 years of age~~". The law defines *dating* or *dating relationship* as an "ongoing social relationship of a romantic or intimate nature between two persons." The terms do not include "a casual relationship or ordinary fraternization between two persons in a business or social context."

⁴ Required by 105 ILCS 110/3.10(b)(3).

⁵ Be sure the referenced board policies, as adopted locally, contain the language paraphrased in this policy. If not, either substitute similar language from the locally adopted board policies on the same topics, or just insert the titles from relevant locally adopted policies.

The statutory content requirements for a teen dating policy include "establish[ing] procedures for the manner in which employees of a school are to respond to incidents of teen dating violence." This policy fulfills this requirement by incorporating by reference the following administrative procedure: 7:180-AP1, *Prevention, Identification, Investigation, and Response to Bullying*. This means that 7:180-AP1 should be considered to be part of this policy.

b.d. 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. This policy prohibits students from engaging in bullying, intimidation, and harassment at school, school-related events and electronically. Prohibited conduct includes threats, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

2. Encourages anyone with information about incidents of teen dating violence to report them to any of the following individuals: **6**
 - a. Any school staff member. School staff shall respond to incidents of teen dating violence by following the District's established procedures for the prevention, identification, investigation, and response to bullying and school violence. **7**
 - b. The Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager identified in policy 7:20, *Harassment of Students Prohibited*. **8**
3. Incorporates age-appropriate instruction in grades 7 through 12, in accordance with the District's comprehensive health education program in Board policy 6:60, *Curriculum Content*. This includes incorporating student social and emotional development into the District's educational program as required by State law and in alignment with Board policy 6:65, *Student Social and Emotional Development*. **9**
4. Incorporates education for school staff, as recommended by the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. **10**
5. Notifies students and parents/guardians of this policy. **11**

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6 105 ILCS 110/3.10(b)(4), requires the policy to identify by job title which school officials are responsible for receiving reports related to teen dating violence.

7 Id. at f/ns 5 ~~&~~and 6. Sexual violence is one listed component of teen dating violence. 105 ILCS 110/3.10(a). Sexual violence has also been found by the Ill. Gen. Assembly to be a component of bullying and school violence. 105 ILCS 5/27-23.7. Thus, identifying *any school staff member* is consistent with 7:180-AP1, *Prevention, Identification, Investigation, and Response to Bullying*, which uses the student-friendly reporting system outlined in 7:180-AP1, E2, *Be a Hero by Reporting Bullying*.

8 Id. Under any reporting system, a report involving bullying and school violence that is based upon a protected status (often teen dating violence will involve conduct based upon the target's sex) must be referred to the district's Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager (7:20, *Harassment of Students Prohibited*). Customize this list to reflect local conditions. These individuals may also take reports directly from students.

9 Required by 105 ILCS 110/3.10(b)(2). The curriculum-specific components for teen dating violence education are listed in 6:60-AP, *Comprehensive Health Education Program*.

10 Id. For boards that add the optional paragraphs in policy 5:100, *Staff Development Program*, add the phrase "and policy 5:100, *Staff Development Program*."

11 Required by 105 ILCS 110/3.10(b)(5). Boards must communicate this policy to students and their parents/guardians. This may be accomplished, in part, by (1) sending 7:185-E, *Memo to Parents/Guardians Regarding Teen Dating Violence*, and (2) amending the district's anti-bullying campaign statement(s), such as the following, in the student handbook and school website:

Bullying, teen dating violence, intimidation, and harassment are not acceptable in any form and will not be tolerated at school or any school-related activity. The School District will take disciplinary action against any student who participates in such conduct or who retaliates against someone for reporting incidents of bullying, teen dating violence, intimidation, or harassment.

Incorporated
by Reference: 7:180-AP1, (Prevention, Identification, Investigation, and Response to Bullying-)

LEGAL REF.: 105 ILCS 110/3.10.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:100 (Staff Development Program), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities)

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General Personnel

Workplace Harassment Prohibited 1

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's actual or perceived race, color, religion², national origin, ancestry, sex, sexual orientation, age, citizenship status, disability, pregnancy, marital status, order of protection status, military status, or unfavorable discharge from military service, nor shall they engage in harassment or abusive conduct on the basis of an individual's other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students,

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¹ State or federal law controls this policy's content. Federal law requires districts to take action to prevent sexual harassment and to disseminate a policy regarding its prohibition of sex discrimination. 29 C.F.R. §1604.11(f); 34 C.F.R. §106.8(b)9. State law requires districts to establish a policy to prohibit sexual harassment. 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221. See ¶n 3 below. Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

Workplace harassment policies have typically focused on *sexual* harassment since it receives the most attention. However, the broad prohibitions against discrimination in State and federal civil rights laws will cover harassing conduct that is motivated by animus against any protected status. See *Porter v. Erie Foods International, Inc.*, 576 F.3d 629 (7th Cir. 2009) (recognizing a cause of action for race harassment). For a list of protected statuses, see [sample](#) policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. This policy prohibiting harassment has a separate section on sexual harassment because of the extensive statutory and case law regarding it.

Under the Ill. Human Rights Act (IHRA), harassment is unlawful if it has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. 775 ILCS 5/2-101(E-1), added by P.A. 101-221, ~~eff. 1-1-20~~. *Working environment* is not limited to a physical location to which an employee is assigned. *Id.* Harassment is unlawful on the basis of the specifically-listed categories in this policy whether that status is *actual or perceived*. *Id.*

An employer is liable under Title VII of the Civil Rights Act of 1964 (Title VII) for an employee's harassment of a co-worker if the employer was negligent with respect to the offensive behavior by, for example, failing to take remedial action when it knew or should have known about the harassment. 42 U.S.C. §2000e et seq. An employer is liable under the IHRA for harassment by its nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A), amended by P.A. 101-221, ~~eff. 1-1-20~~. However, when the perpetrator is the victim's supervisor, the employer will be vicariously liable for the supervisor's actions. Lack of knowledge of a supervisor's misconduct is no defense. *Burlington Industries v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). A *supervisor* is someone who has the authority to demote, discharge, or take other negative job action against the victim. *Vance v. Ball State University*, 133 S.Ct. 2434 (2013). Note that the IHRA, (775 ILCS 5/2-102(D)) imposes strict liability on the employer when an employee has been sexually harassed by supervisory personnel regardless of whether the harasser has any authority over the complainant. *Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n.*, 233 Ill.2d 125 (Ill. 2009). Additionally, under the IHRA, an employer is liable for the harassment of *nonemployees* by nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A-10) and (D-5), added by P.A. 101-221, ~~eff. 1-1-20~~. Nonemployees are those who are directly performing services for an employer pursuant to a contract, such as contractors or consultants. *Id.*

Not all harassing conduct is unlawful discrimination, even if it is disruptive and hurtful. If a board wants to include language in this policy prohibiting employees from engaging in intimidating or offensive conduct that is *not* a civil rights violation, it should consult the board attorney.

² Section 2-102 of the IHRA, amended by P.A. 100-100, contains a *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

including, but not limited to, sexual harassment, is prohibited by Board policies [2:260, Uniform Grievance Procedure: 2:265, Title IX Sexual Harassment Grievance Procedure: 7:20, Harassment of Students Prohibited: 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment: and 7:185, Teen Dating Violence Prohibited.](#)

The District will take remedial and corrective action to address unlawful workplace harassment, including sexual harassment.

Sexual Harassment Prohibited ³

The ~~School~~ District shall provide a workplace environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law. The District provides annual sexual harassment prevention training in accordance with State law. ⁴

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection

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³ The IHRA (775 ILCS 5/2-102(D)) provides that sexual harassment is a civil rights violation: For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

See sample policy 2:265, Title IX Sexual Harassment Grievance Procedure, for the definition of Title IX sexual harassment (20 U.S.C. §1681 et seq.), and see f/n 3 of it for examples of employee sexual harassment that may violate Title IX. Title IX's reach is broad because an alleged complainant or alleged respondent may be anyone in the district's educational program or activity. This includes applicants for employment, students, parents/guardians, any employee, and third parties. Districts are liable for Title IX sexual harassment when any district employee has actual knowledge of sexual harassment or allegations of sexual harassment against anyone in the district (except when the only employee with knowledge is the perpetrator of the alleged sexual harassment). 34 C.F.R. §106.30.

The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221) requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20.

The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights (IDHR); (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/); (4) the consequences: (a) of a violation of the prohibition on sexual harassment and (b) for knowingly making a false report; and (5) a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit. 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221. *PSample policy 2:105, Ethics and Gift Ban,* covers item (5) of this list.

⁴ 775 ILCS 5/2-109, added by P.A. 101-221-~~eff. 1-1-20~~. See *sample policy 5:100, Staff Development Program*, at f/n 4. Districts may use a free, online model program to be offered by the Ill. Dept. of Human Rights (IDHR), develop their own program, or utilize a combination of the two, as long as it includes the following, at a minimum: (1) an explanation of sexual harassment consistent with the IHRA, (2) examples of conduct that constitutes unlawful harassment, (3) a summary of relevant federal and State law concerning sexual harassment and remedies available to victims of sexual harassment, and (4) a summary of responsibilities of employers in the prevention, investigation, and corrective measures of sexual harassment. *Id.* at 5/2-109(B), added by P.A. 101-221-~~eff. 1-1-20~~. For IDHR's online model program, see its *Model Sexual Harassment Prevention Training Program* page at: <https://www2.illinois.gov/dhr/Training/Pages/State-of-Illinois-Sexual-Harassment-Prevention-Training-Model.aspx>. Employers that fail to comply with this training requirement may face financial penalties. *Id.* Training on other types of workplace harassment is not required by law; however it is best practice.

of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.⁵ Sexual harassment prohibited by this policy includes, but is not limited to, verbal, physical, or other conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

Making a Report or Complaint

Employees and *nonemployees*⁶ (persons who are not otherwise employees and are directly performing services for the District pursuant to a contract with the District, including contractors, and consultants) are encouraged to promptly report information regarding violations of this policy. Individuals may choose to report to a person of the individual's same gender. Every effort should be made to file such reports or complaints as soon as possible, while facts are known and potential witnesses are available.

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⁵ This definition is from State and federal law. 775 ILCS 5/2-101(E) and 29 C.F.R. §1604.11. *Working environment* is not limited to a physical location to which an employee is assigned. 775 ILCS 5/2-101(E), amended by P.A. 101-221, ~~eff. 1-1-20~~. The harassing conduct must be severe or pervasive so as to alter the conditions of the employee's work environment by creating a hostile or abusive situation. *Williams v. Waste Management*, 361 F.3d 1021 (7th Cir. 2004). The surrounding circumstances, expectations, and relationships will distinguish between teasing or rough-housing and conduct that a reasonable person would find severely hostile or abusive. In addition, while same-sex gender harassment claims are actionable, the victim must show that s/he suffered disadvantageous employment conditions to which members of the other sex were not exposed. *Oncale v. Sundowner Offshore Services*, 523 U.S. 75 (1998).

⁶ 775 ILCS 5/2-102(A-10) and (D-5), added by P.A. 101-221. See also f/n 1, above, for discussion regarding nonemployees.

Aggrieved individuals, if they feel comfortable doing so, should directly inform the person engaging in the harassing conduct or communication that such conduct or communication is offensive and must stop.

Whom to Contact with a Report or Complaint ⁷

An employee should report claims of harassment, including making a confidential report, to any of the following: his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager. ⁸

Employee may also report claims using Board policy 2:260, *Uniform Grievance Procedure*. If a claim is reported using Board policy 2:260, then the Complaint Manager shall process and review the ~~complaint~~ claim according to that policy, in addition to any response required by this policy.

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. ⁹

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

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⁷ ~~While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. A policy should not be adopted with a person's name in it; rather, the identifying information can be added and amended as necessary.~~

⁸ 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires that a school board policy prohibiting sexual harassment include details for reporting an allegation of sexual harassment, including options for making a confidential report to a supervisor and an ethics officer. 5 ILCS 430/20-23 defines *ethics officers* as being designated by State agencies under the jurisdiction of the Executive Ethics Commission. School districts are not State agencies (5 ILCS 430/1-5) and do not have ethics officers; thus, this sample policy substitutes Complaint Manager for ethics officer. Note also that the IDHR has established a Sexual Harassment Hotline Call Center and website to help the public find resources and assistance for the filing of sexual harassment complaints. The hotline can be reached Monday through Friday with the exception of State holidays, between the hours of 8:30 a.m. and 5:00 p.m., at 1-877-236-7703. See www2.illinois.gov/sites/sexualharassment/Pages/default.aspx. All communications received by the IDHR are exempt from disclosure under the Freedom of Information Act (FOIA).

⁹ ~~Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator." and supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.~~

Complaint Managers:

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Email	Email
_____	_____
Telephone	Telephone

Investigation Process

~~Supervisors, Building Principals, or administrators~~ Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.¹⁰ ~~Any employee-supervisor or administrator~~ who fails to promptly forward a report or complaint may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District’s duty to investigate and maintain a workplace environment that is productive, respectful, and free of unlawful discrimination, including harassment. ~~The District shall investigate alleged workplace harassment when the Nondiscrimination Coordinator or a Complaint Manager becomes aware of an allegation, regardless of whether a written report or complaint is filed.~~

~~For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee¹¹ shall consider whether action under policy 2:265, Title IX Sexual Harassment Grievance Procedure, should be initiated.~~

~~For any other alleged workplace harassment that does not require action under policy 2:265, Title IX Sexual Harassment Grievance Procedure, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policy 2:260, Uniform Grievance Procedure, and/or 5:120, Employee Ethics; Conduct, and Conflict of Interest,¹² should be initiated, regardless of whether a written report or complaint is filed.~~

Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel ¹³

An alleged incident of sexual abuse is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor

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¹⁰ If the district’s Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state “Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager.”

¹¹ “Nondiscrimination Coordinator or designee” is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then “Nondiscrimination Coordinator or a Complaint Manager or designee” is used (see next paragraph in policy text). If the district’s Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete “Nondiscrimination” and insert “Title IX” in its place.

¹² See administrative procedure 5:120-AP2, Employee Conduct Standards.

¹³ Required for districts located within a county served by an accredited Children’s Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531 (governing the investigation of an alleged incident of sexual abuse of any child within any Illinois counties served by a CAC). For further discussion see f/n 14 in sample policy 5:90, Abused and Neglected Child Reporting.

or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, or policy 2:260, *Uniform Grievance Procedure*.

Enforcement ¹⁴

A violation of this policy by an employee may result in discipline, up to and including discharge. ¹⁵ A violation of this policy by a third party will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, i.e.g., vendor, parent, invitee, etc. Any ~~person~~ employee making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, which for an employee that may be up to and including discharge. ¹⁶

Retaliation Prohibited

An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing ~~bona fide~~ complaints or providing information about harassment is prohibited (see Board policy 2:260, *Uniform Grievance Procedure*), and depending upon the law governing the complaint, whistleblower protection may be available under the State Officials and Employees Ethics Act (5 ILCS 430/), the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/). ¹⁷

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¹⁴ See *Berry v. Delta Airlines*, 260 F.3d 803, 811 (7th Cir. 2001) ("If an employer takes reasonable steps to discover and rectify the harassment of its employees ... it has discharged its legal duty.")

In addition to violating other civil rights laws, a school district violates the *public accommodations* article in the IHRA if it fails to take corrective action to stop severe or pervasive harassment. 775 ILCS 5/5-102 and 5/5-102.2.

¹⁵ 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences of a violation of the prohibition on sexual harassment). When discharge is the penalty, examine 50 ILCS 205/3c, added by P.A. 100-1040. It requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was found to have engaged in sexual harassment or sexual discrimination, as defined by the IHRA or Title VII. *Id.* Additionally, under the Workplace Transparency Act (WTA), employers may not require confidentiality clauses in settlement or termination agreements involving alleged unlawful employment practices under federal or State civil rights laws, except under specific conditions. 820 ILCS 96/1-30, added by P.A. 101-221, ~~eff. 1-1-20~~.

Prior to the passage of 50 ILCS 205/3c, added by P.A. 100-1040, and the WTA, members of the public could already access copies of severance agreements between school districts and their former employees under FOIA. The Ill. Atty. Gen. Public Access Counselor (PAC) directed a public body to release a settlement agreement that arose out of claims of sexual harassment. PAO 14-4. The PAC noted that the public body could not withhold the entire settlement agreement under 5 ILCS 140/7(1)(c), which exempts personal information that would constitute a clearly unwarranted invasion of privacy. Instead, it could redact personal information from the agreement, such as the complainants' names in order to protect their privacy. *Id.* However, data regarding settlement agreements involving allegations of sexual harassment or other unlawful discrimination that an employer must report to IDHR under 775 ILCS 5/2-108 is categorically exempt from FOIA. 5 ILCS 140/7.5(oo), added by P.A. 101-221, ~~eff. 1-1-20~~. See f/n 6 in sample policy 2:260, *Uniform Grievance Procedure*, for more discussion about reconciling 50 ILCS 205/3c, added by P.A. 100-1040, with another new law, the Government Severance Pay Act (GSPA) (5 ILCS 415/10(a)(1), added by P.A. 100-895), which prohibits school district employees with contract provisions for severance pay to receive any severance pay if they are fired for *misconduct* by the board.

¹⁶ 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences for knowingly making a false report of sexual harassment).

¹⁷ *Id.* (prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/)).

Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009) (holding the anti-retaliation provision in EEOA protects an employee who spoke out about harassment, not only on his or her own initiative, but also in answering questions during an employer's internal investigation).

Commented [MB1]: Formerly footnote 9.

Commented [MB2]: Formerly footnote 10.

Commented [MB3]: Formerly footnote 11.

Commented [MB4]: Formerly footnote 12.

An employee should report allegations of retaliation to his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

Employees who retaliate against others for reporting or complaining of violations of this policy or for participating in the reporting or complaint process will be subject to disciplinary action, up to and including discharge.

Recourse to State and Federal Fair Employment Practice Agencies ¹⁸

The District encourages all employees who have information regarding violations of this policy to report the information pursuant to this policy. The following government agencies are available to assist employees: the Ill. Dept. of Human Rights and the U.S. Equal Employment Opportunity Commission.

The Superintendent shall also use reasonable measures to inform staff members, applicants, and nonemployees of this policy, which shall include posting on the District website and/or making this policy available in the District's administrative office, and including this policy in the appropriate handbooks. ¹⁹

Commented [MB5]: Formerly footnote 13.

Commented [MB6]: Formerly footnote 14.

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¹⁸ 5 ILCS 430/70-5(a), amended by P.A. 100-554, (how an individual can report an allegation of sexual harassment, including options for making a confidential report to the Inspector General or the IDHR). This sample policy does not reference the Inspector General because the Inspector General does not have jurisdiction over public school districts. 5 ILCS 430/1. School districts must also annually disclose to IDHR certain data about *adverse judgment or administrative rulings* made against them where there was a finding of sexual harassment or unlawful discrimination under federal, State, or local laws. 775 ILCS 5/2-108, added by P.A. 101-221, ~~eff. 1-1-20~~.

¹⁹ A district must notify employees of the grievance procedure and the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. §106.8(~~a~~). The nondiscrimination coordinator can be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as the complaint manager in policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

Informing nonemployees is not required by law. However, given the potential for employer liability under the IHRA for harassment of nonemployees, best practice is to publicize this policy to those individuals as well.

LEGAL REF.: Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.; ~~implemented by~~
29 C.F.R. §1604.11.
Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq.; ~~implemented~~
~~by~~-34 C.F.R. Part 106.
State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).
Ill. Human Rights Act, 775 ILCS 5/2-101(E) and (E-1), 5/2-102(A), (A-10), (D-5),
5/2-102(E-5), 5/2-109, 5/5-102, and 5/5-102.2.
56 Ill. Admin.Code Parts 2500, 2510, 5210, and 5220.
Burlington Industries v. Ellerth, 524 U.S. 742 (1998).
Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009).
Faragher v. City of Boca Raton, 524 U.S. 775 (1998).
Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 (1992).
Harris v. Forklift Systems, 510 U.S. 17 (1993).
Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005).
Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986).
Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998).
Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009).
Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 (Ill.
2009).
Vance v. Ball State University, 133 S. Ct. 2434 (2013).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment
Grievance Procedure), 4:60 (Purchases and Contracts), 5:10 (Equal Employment
Opportunity and Minority Recruitment), 5:90 (Abused and Neglected Child
Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 7:20
(Harassment of Students Prohibited), 8:30 (Visitors to and Conduct on School
Property)

Students

Harassment of Students Prohibited 1

Bullying, Intimidation, and Harassment Prohibited

No person, including a School District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity²; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of

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¹ State or federal law requires this subject matter be covered by policy, controls this policy's content, and 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-531, requires that every two years, each district within an Illinois county served by an accredited Children's Advocacy Center review all its existing sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see [sample policy 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment](#).

This policy's list of protected classifications is identical to the list in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103, amended by P.A. 101-221, ~~eff. 1-1-20~~; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. 105 ILCS 5/27-23.7.

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation and gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A), added *order of protection status* to its list of protected categories. The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2.

² See [fn 2 in sample policy 7:10, Equal Educational Opportunities](#), for a discussion about Executive Order (EO) 2019-11 establishing the Affirming and Inclusive Schools Task Force (Task Force) that made policy and administrative procedure recommendations to the Ill. State Board of Education (ISBE) that are discussed in a its publication [Sample District Policy and Administrative Procedures](#) at www.isbe.net/supportallstudents.

For boards that want to incorporate ISBE's sample policy recommendation, insert the following in place of "gender identity"; gender: gender identity (whether or not traditionally associated with the student's sex assigned at birth).

If the board inserts this option, it must also insert the options in f/ns 2 and 7 of policy 7:10, *Equal Educational Opportunities*. BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:10, *EQUAL EDUCATIONAL OPPORTUNITIES*.

property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above.³

Commented [MB1]: Formerly footnote 2.

Sexual Harassment Prohibited

The District shall provide an educational environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law. Sexual harassment of students is prohibited.⁴ See policies 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 2:260, *Uniform Grievance Procedure*.

Commented [MB2]: Formerly footnote 3.

Any person, including a district employee or agent, or student, engages in sexual harassment whenever he or she makes sexual advances, requests sexual favors, and/or engages in other verbal or physical conduct, including sexual violence, of a sexual or sex-based nature, imposed on the basis of sex, that:

1. Denies or limits the provision of educational aid, benefits, services, or treatment; or that makes such conduct a condition of a student's academic status; or

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³ This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. *West v. Derby Unified Sch. Dist.*, 206 F.3d 1358 (10th Cir. 2000).

⁴ Two laws apply to sexual harassment of students in Illinois. Title IX of the Education Amendments of 1972 (Title IX) and the IHRA prohibits discrimination on the basis of sex and sexual harassment in any educational program or activity receiving federal financial assistance. 20 U.S.C. §1681. Title IX defines sexual harassment as conduct on the basis of sex that meets one or more of the following: (1) a district employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal access to the District's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in federal law. 34 C.F.R. §106.30. For purposes of Title IX, sexual harassment of students includes acts of sexual violence. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*. Consult the board attorney to ensure the non-discrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon sexual violence under Title IX's sexual harassment umbrella. Guidance See sample procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*. documents highlight appropriate responses to sexual violence under Title IX. See ¶n 7 in policy 2:260, *Uniform Grievance Procedure* for a listing and links to these documents.

The sample policy's definition of sexual harassment does not distinguish between welcome and unwelcome behaviors—each is prohibited if it has a result described in sub-paragraph 1 or 2. See *Mary M. v. North Lawrence Community Sch. Corp.*, 131 F.3d 1220 (7th Cir. 1997). (An eighth grade student did not need to show that a school employee's sexual advances were unwelcome in order to prove sexual harassment.)

The IHRA prohibits any district employee or agent from sexually harassing a student, and defines sexual harassment as any unwelcome sexual advances or requests for sexual favors made to a student, or any conduct of a sexual nature toward a student, when: (1) such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment; or (2) the district employee or agent either explicitly or implicitly makes the student's submission to or rejection of such conduct as a basis for making various enumerated education-related determinations. 775 ILCS 5/5A-201(E).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. *Gebser v. Lago Vista Independent Sch. Dist.*, 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999). The Ill. Dept. of Human Rights investigates charges of sexual harassment in violation of the IHRA, and it is a civil rights violation when now has jurisdiction over allegations that a school district failed to take corrective remedial or disciplinary action against an employee the district knows engaged in to stop severe or pervasive sexual harassment of an individual based upon a protected category. 775 ILCS 5/5A-102.2.

~~2. Has the purpose or effect of:~~

- ~~a. Substantially interfering with a student's educational environment;~~
- ~~b. Creating an intimidating, hostile, or offensive educational environment;~~
- ~~c. Depriving a student of educational aid, benefits, services, or treatment; or~~
- ~~d. Making submission to or rejection of such conduct the basis for academic decisions affecting a student.~~

~~The terms *intimidating*, *hostile*, and *offensive* include conduct that has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities. The term *sexual violence* includes a number of different acts. Examples of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.~~

Making a Report or Complaint

Students are encouraged to promptly report claims or incidences of bullying, intimidation, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any ~~staff member~~employee with whom the student is comfortable speaking.⁵ A student may choose to report to an ~~employee~~person of the student's same ~~sex~~gender.

Commented [MB3]: Formerly footnote 4.

~~An allegation that a student was a victim of any prohibited conduct perpetrated by school personnel, including a school vendor or volunteer, shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*, in addition to any response required by this policy. Reports under this policy will be considered a report under Board policy 2:260, *Uniform Grievance Procedure*, and/or Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. The Nondiscrimination Coordinator and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure.⁶~~

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁵ Using "or any ~~staff member~~employee with whom the student is comfortable speaking" is consistent with 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, ensures compliance with Title IX regulations providing that "any employee" of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment is deemed to have *actual knowledge* which triggers a district's duty to respond. 34 C.F.R. §106.30. By including "any ~~staff member~~employee" in this list, this policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

⁶ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "The Nondiscrimination Coordinator, Title IX Coordinator, and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure."

~~7~~ At least one of these individuals will be female, and at least one will be male. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. ~~8~~

Commented [MB4]: Formerly footnote 5.

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy by including:

1. For students, age-appropriate information about the contents of this policy in the District's student handbook(s), on the District's website, and, if applicable, in any other areas where policies, rules, and standards of conduct are otherwise posted in each school. ~~9~~

Commented [MB5]: Formerly footnote 7.

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~~7~~ Title IX regulations require districts to identify the person, address, and telephone number of the individual responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Each district must communicate its bullying policy to students and their parents/guardians. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see [sample policy 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment](#).

~~8~~ Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator." supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

2. For staff members, this policy in the appropriate employee handbook(s), if applicable, and/or in any other areas where policies, rules, and standards of conduct are otherwise made available to staff.

Investigation Process

~~Supervisors, Building Principals, or administrators~~ Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.¹⁰ ~~Any employee-supervisor or administrator~~ who fails to promptly comply may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

~~The District shall investigate alleged harassment of students when the Nondiscrimination Coordinator or a Complaint Manager becomes aware of an allegation, regardless of whether a written report or complaint is filed.~~

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee¹¹ shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged student harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policies 2:260, *Uniform Grievance Procedure*, and/or 7:190, *Student Behavior*, should be initiated, regardless of whether a written report or complaint is filed.

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⁹ In addition to notifying students of ~~the policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*~~, a district must notify them of the name, office address, email address, and telephone number of district's Title IX Coordinator ~~person(s) designated to coordinate the district's compliance with Title IX.~~ 34 C.F.R. ~~Part~~ §106.8(a). 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418, ~~eff. 1-1-20~~, requires districts to maintain and implement an *age-appropriate* policy on sexual harassment that is included in the school district's student handbook, as well as on a district's website and, if applicable, other areas where such information is posted in each school. The law does not expressly state that the age-appropriate policy is for students; however, that is the most logical interpretation. In practice, most districts maintain a student handbook for each building. Because the law only requires one policy, this policy manages the age-appropriate requirement by directing age-appropriate explanations of the policy be included in the building-level student handbook(s). Student handbooks can be developed by the building principals, but should be reviewed and approved by the superintendent and school board.

The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

¹⁰ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager."

¹¹ "Nondiscrimination Coordinator or designee" is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see next paragraph in policy text). If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete "Nondiscrimination" and insert "Title IX" in its place.

Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel ¹²

Commented [MB6]: Formerly footnote 8.

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity. ¹³

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*; ~~in addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, Title IX Sexual Harassment Grievance Procedure, or policy 2:260, Uniform Grievance Procedure~~ ~~any response required by this policy.~~

Enforcement

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. ~~Any third party who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc.~~ Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action ~~up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.~~

Retaliation Prohibited

~~Retaliation against any person for bringing complaints or providing information about harassment is prohibited (see policies 2:260, Uniform Grievance Procedure, and 2:265, Title IX Sexual Harassment Grievance Procedure).~~

~~Students should report allegations of retaliation to the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.~~

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹² ~~Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited Children's Advocacy Center (CAC). 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531, governs the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC. For a map of accredited CACs, and to identify a CAC that may serve your district, see www.childrensadvocacycentersofillinois.org/about/map. For further discussion see f/n 14 in policy 5:90, *Abused and Neglected Child Reporting*.~~

¹³ ~~105 ILCS 5/22-85(b) (final citation pending), added by P.A. 101-531. For further discussion see f/n 14 in policy 5:90, *Abused and Neglected Child Reporting*.~~

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.
23 Ill.Admin.Code §1.240 and Part 200.
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).
Franklin v. Gwinnett Co. Public Schs., 503 U.S. 60 (1992).
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).
West v. Derby Unified Sch. Dist. No. 260, 206 F.3d 1358 (10th Cir. 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

DRAFT

Approval of Recommended Personnel Report

Please see the additional memo following this page.

ACTION ITEM 20-10-2

I move that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Personnel Report for October 8, 2020, noting that the Personnel Report is based on the recommendation of the Superintendent and not upon the Board’s direct knowledge regarding any of the specific individuals selected for employment.

The votes were cast as follows:

Moved by _____ Seconded by _____

AYES:

NAYS:

PRESENT:

ABSENT:

To: Board of Education
From: Dr. Joel T. Martin, Assistant Superintendent for Human Resources
Date: October 8, 2020
Re: Potential New Hires

Due to the current pandemic, the District is looking to hire new additional staff members for this school year to provide adequate supervision, support, and additional cleaning. Specifically, the administration may need to hire up to 10 additional custodians to assist in cleaning our 9 District buildings during the pandemic. As there is the potential for an increase in dealing with medical issues in the nurses' offices, we are looking to hire up to 7 health assistants who can provide coverage and assistance during the COVID-19 crisis. The District also has staff members with underlying health issues that prevent them from returning to work in person. As a result, the District will need to hire additional long-term substitutes and teaching assistants to cover and support classes when students return to in person learning. The administration would therefore like to review and get input from the Board of Education for these potential new hires.

October 8, 2020
Personnel Report

Rebecca Bergeron	Resign as Teaching Assistant at Roosevelt School effective October 14, 2020.
Angela Krischon	Resign as 1st Grade Teacher at Field School effective October 9, 2020.
Lauren Masciopinto	Resign as Teaching Assistant at Roosevelt School effective August 24, 2020.

Consent Agenda

ACTION ITEM 20-10-3

I move that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Consent Agenda for October 8, 2020, which includes: Bills, Payroll, and Benefits; Approval of Financial Update for the Period Ending August 31, 2020; Second Reading and Approval of Policy 4:180; Approval of Reciprocal Reporting Intergovernmental Agreement between the Village of Niles and the Boards of Education of School District Nos 63, 64, 71 and Cook County, Illinois; Approval of Hold or Release of Closed Minutes; and the Destruction of Audio Closed Recordings (None).

The votes were cast as follows:

Moved by _____ Seconded by _____

AYES:

NAYS:

PRESENT:

ABSENT:

Community Consolidated School District No. 64

Disbursement Detail Listing

Bank Name: Accounts Payable
 Bank Account: 885360644

Date Range: 07/01/2020 - 09/29/2021
 Voucher Range: 1053 - 1058

Sort By: Vendor
 Dollar Limit: \$0.00

Fiscal Year: 2020-2021

Print Employee Vendor Names Exclude Voided Checks Exclude Manual Checks Include Non Check Batches

Check Number	Date	Voucher	Payee	Account	Description	Amount
NCB	09/29/2020	1055	Winsor Learning	10.0000.1200.4100.000.00.462000	Sunday System 1 Intervention Set - Upgrade	\$4,455.00
NCB	09/29/2020	1055	Winsor Learning	10.0000.1200.4100.000.00.462000	Sunday System 2 Intervention Set - Upgrade	\$1,980.00
NCB	09/29/2020	1055	Winsor Learning	10.0000.1200.4100.000.00.462000	Sunday System 1 Reading Intervention	\$0.00
NCB	09/29/2020	1055	Wow! Business	10.0000.2633.3420.000.00.000000	9-1 /9-30 Internet for EM	\$854.99
Check Total:						\$22,199.54
Bank Total:						\$1,059,119.69

<u>Fund</u>	<u>Amount</u>
10	\$901,665.38
20	\$123,819.56
30	\$2,074.29
40	\$9.40
60	\$31,551.06
Fund Totals:	\$1,059,119.69

End of Report

Disbursements Grand Total: \$1,059,119.69

Community Consolidated School District No. 64

Disbursement Detail Listing

Bank Name: Accounts Payable

Date Range: 07/01/2020 - 10/08/2020

Sort By: Vendor

Bank Account: 885360644

Voucher Range: 1064 - 1068

Dollar Limit: \$0.00

Fiscal Year: 2020-2021

Print Employee Vendor Names

Exclude Voided Checks

Exclude Manual Checks

Include Non Check Batches

Check Number	Date	Voucher	Payee	Account	Description	Amount
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<u>Fund</u>	<u>Amount</u>
10	\$348,576.00
20	\$200,651.93
30	\$12,859.05
40	\$2,016.00
60	\$3,910.00
Fund Totals:	\$568,012.98

End of Report

	Disbursements Grand Total:	\$568,012.98
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Community Consolidated School District No. 64

Fund Balances

Fiscal Year: 2020-2021

Month: September
 Year: 2020
 Fund Type:

Include Cash Balance
 FY End Report

<u>Fund</u>	<u>Description</u>	<u>Beginning Balance</u>	<u>Revenue</u>	<u>Expense</u>	<u>Transfers</u>	<u>Fund Balance</u>
10	Education Fund	\$32,115,885.16	\$22,795,198.75	(\$10,586,264.67)	\$0.00	\$44,324,819.24
20	Operations & Maintenance Fund	\$3,478,196.17	\$2,568,556.49	(\$1,531,058.74)	\$0.00	\$4,515,693.92
30	Debt Services Fund	\$3,674,487.08	\$743,922.56	(\$40,651.44)	\$0.00	\$4,377,758.20
40	Transportation Fund	\$1,924,279.79	\$692,409.73	(\$6,756.18)	\$0.00	\$2,609,933.34
50	Municipal Retirement Fund	\$834,815.39	\$329,127.62	(\$177,032.89)	\$0.00	\$986,910.12
51	Social Security/Medicare Fund	\$585,806.83	\$387,280.95	(\$181,527.42)	\$0.00	\$791,560.36
60	Capital Projects Fund	\$3,100,311.72	\$213.52	(\$3,170,269.85)	\$0.00	(\$69,744.61)
61	Cap Projects Fund - 2017 Debt Certs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
70	Working Cash Fund	\$812,220.81	\$212,294.70	\$0.00	\$0.00	\$1,024,515.51
80	Tort Fund	\$617,632.11	\$155,198.88	(\$500,361.50)	\$0.00	\$272,469.49
Grand Total:		\$47,143,635.06	\$27,884,203.20	(\$16,193,922.69)	\$0.00	\$58,833,915.57

End of Report

This Report Can be Viewed on the

[Financial Data Current](#)

Community Consolidated School District No. 64

General Ledger - BOARD EXPENDITURE REPORT

Fiscal Year: 2020-2021 From Date:8/1/2020 To Date:8/31/2020

Account Mask: ??????????????????????????????

Account Type: Expenditure

- Print accounts with zero balance Include Inactive Accounts Include PreEncumbrance

FUND / SOURCE / FUNCTION / OBJECT	FY20-21 Budget	Range To Date	Year To Date	Encumbrance	Budget Balance
Grand Total:	\$86,779,502.70	\$5,668,149.11	\$10,213,967.44	\$57,851,610.06	\$18,713,925.20

End of Report

Community Consolidated School District No. 64

General Ledger - Board Revenue Report

Fiscal Year: 2020-2021 From Date:8/1/2020 To Date:8/31/2020

Account Mask: ??????????????????????????????

Account Type: Revenue

- Print accounts with zero balance Include Inactive Accounts Include PreEncumbrance

FUND / SOURCE

FY20-21 Budget Range To Date Year To Date Encumbrance Budget Balance

Grand Total: (\$81,327,520.42) (\$17,530,498.35) (\$27,883,467.43) \$0.00 (\$53,444,052.99)

End of Report

This Report Can be Viewed on the

[Financial Data Current](#)

Operational Services

Pandemic Preparedness; Management; and Recovery 1

The School Board recognizes that the District will play an essential role along with the local health department and emergency management agencies in protecting the public's health and safety ~~if during an influenza pandemic occurs.~~ 2

A pandemic influenza is a worldwide global outbreak of disease. Pandemics happen when a new virus emerges to infect individuals and, because there is little to no pre-existing immunity against the

Commented [KS1]: The former last paragraph of this footnote is moved to the second sentence of the second paragraph.
The fourth paragraph was moved to footnote 3.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

1 ~~Certain subheads of this policy are required; specifically Suspension of In-Person Instruction; Remote and/or Blended Remote Learning Day Plan(s) (see f/n 12, below), and depending upon the specific terms of government orders and/or guidance issued during a pandemic, if a district wishes to continue to charge employee salaries and benefits to a grant during an extended school closure, Payment of Employee Salaries During Emergency School Closures (see f/n 11, below). Other subheads and text in this policy are optional. Its purpose is to establish board direction about pandemic preparedness, management, and recovery issues and inform provide information to the community about the board's role during an influenza pandemic.~~

Boards are authorized to adopt a policy on pandemic preparedness even though State and federal law provide little guidance. On 3-11-20, the World Health Organization (WHO) characterized the COVID-19 outbreak as a pandemic. See www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020. Before the COVID-19 pandemic, most research and guidance around pandemics was specific to influenza, but the same principles for influenza pandemics were applied to the management of the COVID-19 pandemic. State law grants boards broad authority to formulate, adopt, and modify school board policies, at the board's sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. 105 ILCS 5/10-20.5 and 115 ILCS 5/1 et seq. See 2:20, Powers and Duties of the School Board; Indemnification, and also 2:240, Board Policy Development.

Information similar to this policy's content may also be a part of a district's safety plans, which the superintendent uses to implement the board's direction in this policy.

See f/n 3, below for a definition of A pandemic, is a worldwide outbreak of a disease for which there is little or no natural immunity. During an influenza pandemic, a new influenza virus will cause thousands or even millions of people to contract the disease and, in turn, spread the illness to others because people have not been previously exposed to the new virus. Seasonal influenza viruses are similar to those already circulating among people. See School Guidance During an Influenza Pandemic, December 2006, Illinois State Board of Education opening letter to School Officials dated November 2006 from Dr. Randy J. Dunn and Dr. Eric Whitaker. This letter may be found at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_letter.pdf.

According to the Centers for Disease Control and Prevention (CDC) guidance, schools serve as an "amplification point" of flu epidemics. School Superintendent's Insider, April 2007. School officials should be preparing for the flu pandemic as a U.S. Health and Human Services Pandemic Influenza Plan estimates that about 30 percent of the general population would become ill in a pandemic. The agency estimates among school-aged children the figure would be higher, about 40 percent. Sources: NSBA and School Board News, 3-14-2006. Boards are authorized to adopt a policy on pandemic preparedness even though State and federal law provide little guidance. State law grants boards broad authority to formulate, adopt, and modify school board policies, at the board's sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. 105 ILCS 5/10-20.5 and 115 ILCS 5/1 et seq. See 2:20, Powers and Duties of the School Board; Indemnification, and also 2:240, Board Policy Development.

2 Multiple stakeholders at many levels and in many groups have important roles in effective pandemic influenza preparedness, management, and recovery efforts response. Stakeholders include federal departments and agencies, public health organizations, State and local health departments and laboratories, private health care organizations, influenza vaccine and antiviral manufacturers, and vaccine distributors and vaccinators. Effective response to an influenza pandemic requires planning, infrastructure, and action at many levels and by many groups. Illinois Pandemic Influenza Preparedness and Response Plan, Version 2.055.0, October 10, 2006 May 2014, Concept of Operations 2.0, page 3836, which is located at: www.idph.state.il.us/pandemic_flu/planning.htm.

~~new virus, it spreads sustainably for which there is little or no natural immunity and no vaccine; it spreads quickly to people who have not been previously exposed to the new virus.~~³

To prepare the School District community for a pandemic, the Superintendent or designee shall:⁴ (1) learn and understand ~~how~~ the roles that the federal, State, and local government ~~function would play in an epidemic~~; (2) form a pandemic planning team consisting of appropriate District personnel and community members to identify priorities and oversee the development and implementation of a comprehensive pandemic ~~influenza~~-school action plan; and (3) build awareness of the final plan among staff, students, and community.

DRAFT

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³ This paragraph embodies the CDC's pandemic definition. See www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html. The **Illinois Pandemic Influenza Preparedness and Response Plan**, Version 5.0, May 2014, also defines pandemic at page 9; however, that definition is specific to influenza. The new COVID-19 coronavirus is not an influenza virus yet was characterized as a pandemic by the World Health Organization. At the time of publication during the 2020 COVID-19 pandemic, it was not clear whether this Illinois resource's definition will be amended. www.dhs.gov/sites/default/files/publications/cikrpandemicinfluenzaguide.pdf.

Prior to the COVID-19 pandemic, literature discussed that during an influenza pandemic, a new influenza virus will cause thousands or even millions of people to contract the disease and, in turn, spread the illness to others because people have not been previously exposed to the new virus. ~~Seasonal influenza viruses are similar to those already circulating among people.~~ See **School Guidance During an Influenza Pandemic**, December 2006; Illinois State Board of Education (ISBE) opening letter to School Officials dated November 2006 from Dr. Randy J. Dunn and Dr. Eric Whitaker. ~~This letter may be found at:~~ www.idph.state.il.us/pandemic_flu/school_guide/sppg_letter.pdf.

⁴ 105 ILCS 5/10-16.7. The school board directs, through policy, the superintendent in his or her charge of the district's administration.

Emergency School Closing ⁵

In the case of a pandemic, the Governor may declare a disaster due to a public health emergency that may affect any decision for an emergency school closing. Decisions for an emergency school closing will be made by the Superintendent in consultation with and, if necessary, at the direction of the Governor, Ill. Dept. of Public Health, District's local health department, emergency management agencies, and/or Regional Office of Education. ⁶

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁵ In times of emergency, the functions of different levels of State and federal government often become cloudy, and determining what governmental entity has powers to take a particular action can be confusing. The concept of federalism, or the coexistence of federal and state governments with their own local powers, was utilized during the response to the 2020 COVID-19 pandemic. Federalism is premised on the Constitutional limits of federal power. See U.S. Const. Art. I, Sec. 8 (limiting powers of Congress providing only those powers enumerated). Generally, during the 2020 COVID-19 pandemic, Illinois and other states were left with these remaining powers of government to respond to the crisis. In general, President Trump's administration set broad national policy, particularly with respect to international travel and the approval of treatments, and suggested guidance that States could follow regarding mitigation measures. The states' governors and local leaders made other state-specific or locality-specific decisions based upon the local conditions in each community. Depending upon the federal administration in power at the time of a pandemic, the federal government may seek to play a greater or lesser role in the management of a pandemic.

Local health departments, emergency medical agencies, and the Regional Office of Education may direct a school to close during a pandemic. See **School Guidance During an Influenza Pandemic**, December 2006; ~~Illinois State Board of Education~~ ISBE opening letter to school officials dated November 2006 from Dr. Randy J. Dunn and Dr. Eric Whitaker. This letter is at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_letter.pdf.

The Ill. Dept. of Public Health (IDPH) is also authorized to order a place to be closed and made off-limits to the public to prevent the probable spread of a dangerously contagious or infectious disease. 20 ILCS 2305/2(b).

The Governor also has emergency powers upon his or her declaration of a disaster, which includes among other things public health emergencies. 20 ILCS 3305/4 and 3305/7. Upon such proclamation, the Governor has, and may exercise for a period not to exceed 30 days, several emergency powers. *Id.*

Since ~~this~~ the 2006 **School Guidance During an Influenza Pandemic** letter was written, several Illinois schools faced an H1N1 outbreak in 2009, and all Illinois schools faced the 2020 COVID-19 pandemic.

During the 2009 H1N1 outbreak, ISBE directed schools with a statement titled *Closing School in Response to H1N1* that outlined "the decision to close school must be made locally by the school district and in conjunction and support with the relevant local public health department. The impact of a pandemic influenza may vary from region to region. Therefore, it is crucial that district administrators rely on the advice and recommendations of their local public health department." See www.isbe.net/Documents/SP42-2009-school-dismissals.pdf.

During the 2020 COVID-19 pandemic, the Governor and ISBE issued many directives and/or guidance, including reliance upon the advice and recommendations of local public health departments. See www.isbe.net/Documents/ISBE-Guidance-to-School-Coronavirus.pdf. And see other 2020 COVID-19 guidance documents as follows:

Ill. Gov. Pritzker, ISBE, Ill. Association of School Admin., Ill. Principals' Assoc., Ill. Ed. Assoc., and Ill. Fed. of Teachers Joint Statement:

www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf.

IDPH-ISBE joint schools guidance:

www.dph.illinois.gov/topics-services/diseases-and-conditions/diseases-a-z-list/coronavirus/schools-guidance

IDPH-ISBE joint workplace health and safety guidance:

www.dph.illinois.gov/covid19/community-guidance/workplace-health-and-safety-guidance

Restore Illinois Plan:

www2.illinois.gov/dceo/Pages/RestoreILP3.aspx.

During the 2020 COVID-19 pandemic, several protests occurred and many lawsuits were filed challenging Ill. Gov. Pritzker's extensions of disaster declaration emergency power under IEMA, 20 ILCS 3305/7. See the 2020 COVID-19 Executive Orders (EO) at: coronavirus.illinois.gov/s/resources-for-executive-orders. Controversies existed across party and regional lines with all branches of government looking to balance the need to protect human life against the desire to preserve personal liberty. Gov. Pritzker's EOs faced unsettled challenges in both the courts of law and public opinion as a five-phased plan to re-open Illinois was also being introduced a/k/a *Restore Illinois Plan* (coronavirus.illinois.gov/s/restore-illinois-introduction).

⁶ Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center." ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

Commented [KS2]: PRESS Subscribers:

The third and fourth paragraphs are moved up. The third paragraph is now the second paragraph and the fourth paragraph is now the third paragraph.

Then the applications of these laws through recent Illinois history is addressed.

Commented [KS3]: PRESS Subscribers:

The intent with this additional text is to acknowledge what f/n 5 had always informed subscribers re: IEMA statute – but including in the policy text also informs the community (and others who will rarely read the footnotes).

During an emergency school closing, the Board President and the Superintendent⁷ may, to the extent the emergency situation allows, examine existing Board policies pursuant to Policy 2:240, *Board Policy Development*, and recommend to the Board for consideration any needed amendments or suspensions to address mandates that the District may not be able to accomplish or implement due to a pandemic. ⁸

Board Meeting Procedure: No Physical Presence of Quorum and Participation by Audio or Video ⁹

A disaster declaration related to a public health emergency¹⁰ may affect the Board's ability to meet in person and generate a quorum of members who are physically present at the location of a meeting. Policy 2:220, *School Board Meeting Procedure*, governs Board meetings by video or audio conference without the physical presence of a quorum.

Payment of Employee Salaries During Emergency School Closures ¹¹

The Superintendent shall consult with the Board to determine the extent to which continued payment of salaries and benefits will be made to the District's employees, pursuant to Board policies 3:40, *Superintendent*, 3:50, *Administrative Personnel Other Than the Superintendent*, 5:35, *Compliance with the Fair Labor Standards Act*, 5:200, *Terms and Conditions of Employment and Dismissal*, and 5:270, *Employment At-Will, Compensation, and Assignment*, and consistent with: (1) applicable laws, regulations, federal or State or local emergency declarations, executive orders, and agency directives; (2) collective bargaining agreements and any bargaining obligations; and (3) the terms of any grant under which an employee is being paid.

Suspension of In-Person Instruction: Remote and/or Blended Remote Learning Day Plan(s)

When the Governor declares a disaster due to a public health emergency pursuant to 20 ILCS 3305/7, and the State Superintendent of Education declares a requirement for the District to use *Remote*

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁷ For a board that prefers its policy committee to engage in this work, delete ~~Board President and the Superintendent~~ and insert: Board Policy Committee. See policies 2:150, *Committees* and 2:240, *Board Policy Development*. This sample policy uses the board president and superintendent as the default text because during a pandemic, it may be difficult for a board policy committee to meet pursuant emergency executive orders that are issued, etc.

⁸ For an example of some issues that these entailed during the 2020 COVID-19 pandemic, see paragraph six of f/n 12, below.

⁹ 5 ILCS 120/2.01 and 120/7(e), amended by P.A. 101-640. See also 105 ILCS 5/10-6 and 5/10-12.

¹⁰ While 5 ILCS 120/7(e)(1), amended by P.A. 101-640, uses the phrase "related to public health concerns," the text "due to public health emergency" aligns with Ill. Emergency Act (IEMA), 20 ILCS 3305/4 and 7, the governing statute of disaster declarations. For ease of understanding and alignment with IEMA, this policy uses "public health emergency." For more discussion, see f/n 33 in sample policy 2:220, *School Board Meeting Procedure*.

¹¹ Required if a district wishes to continue to charge employee salaries and benefits to a grant during an extended school closure, depending upon the specific terms of government orders and/or guidance issued during a pandemic. 2 C.F.R. Part 200 (see www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf, extended until 9-30-20 by www.whitehouse.gov/wp-content/uploads/2020/06/M-20-26.pdf) and 30 ILCS 708/. See sample procedure 4:180-AP3, *Grant Flexibility: Payment of Employee Salaries During a Pandemic*, and its footnotes.

During the 2020 COVID-19 pandemic, Gov. Pritzker and ISBE issued directives and/or guidance regarding payment of school district employees that may impact a board's decision regarding continued payment of employees during an extended closure. ISBE and the Governor suspended in-person learning and issued a Joint Statement (JS) with other school administrator and union groups, which purported to mandate that all school district employees on the district's payroll be paid as if districts were functioning normally and they were performing their normal work. See www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf. The JS cited no specific authority for the payment mandate. Additionally, changes to wages, hours, terms and conditions of employment, even when made during an extraordinary circumstance such as a pandemic, remain subject to collective bargaining obligations.

~~Learning Days or Blended Remote Learning Days, the Superintendent shall approve and present to the Board for adoption a Remote and/or Blended Remote Learning Day Plan¹² (Plan) that: ¹³~~

the District shall adopt a Remote and/or Blended Remote Learning Day Plan approved by the Superintendent.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹² 105 ILCS 5/10-30(3), added by P.A. 101-643, requires the “[board] to adopt and the superintendent to approve” these plans upon the following statutory triggers: (1) the governor declaring a disaster pursuant to 20 ILCS 3305/, and (2) the state superintendent of education declaring a requirement for a school district, multiple school districts, a region, or the entire State. See sample administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)* for the specifics of implementing Remote Learning Days (RLDs) and/or Blended Remote Learning Days (BLRDs).

Implementing a plan under this subhead contains items on which collective bargaining may be required. Any policy that impacts wages, hours, or terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This subhead of the policy concerns an area in which the law is unsettled. See 105 ILCS 5/10-30(7), added by P.A. 101-643 (stating that it does not increase or diminish any collective bargaining rights under existing law, and that aspects of the plan that impact the wages or other terms or conditions of employment will need to be bargained with the exclusive bargaining representative(s)).

To avoid confusion, note that the triggers under the Open Meetings Act (OMA), 5 ILCS 120/7, amended by P.A. 101-640, for when a school board may conduct its meetings by audio or video conference without the physical presence of a quorum are a bit more broad: (1) the “governor or the director of IDPH has issued a disaster declaration as defined in 20 ILCS 3305/, and (2) all or part of the jurisdiction of the [school board] is covered by the disaster area. This means that it is possible for the board to meet remotely under OMA if the director of IDPH declares a disaster, but the School Code requires the governor to be the one to declare the disaster under 20 ILCS 3305/ in order for the state superintendent of education to declare that a district implement RLD/BRLDs.

RLD/BRLDs and *e-learning days/e-learning programs* are different. RLD/BRLDs are for use when the governor declares a disaster under 20 ILCS 3305/ and the state superintendent has declared a requirement for the district to use them to provide remote instruction to pre-kindergarten through grade 12 that count as pupil attendance days under 105 ILCS 5/10-19.05(j-5), amended by P.A. 101-643, 105 ILCS 5/10-30(1), added by P.A. 101-643. BRLDs allow districts to utilize “hybrid models of in-person and remote instruction. E-learning days are part of an e-learning program that require a board to, among other things, hold a public hearing and obtain approval by the Regional Office of Education (or Intermediate Service Center) to allow the district to provide instruction to students electronically while they are not physically present due to inclement weather and other unexpected events. 105 ILCS 5/10-20.56(b), amended by P.As. 101-12 and 101-643. School districts with e-learning programs may adapt them for use during RLDs and BLRDs (105 ILCS 5/10-20.56(a), amended by P.As. 101-12 and 101-643, and 5/10-30(2), added by P.A. 101-643).

If the board has adopted an e-learning program pursuant to 105 ILCS 5/10-20.56, added by P.A. 101-12, add the following text to number two after 105 ILCS 5/10-30:

2. _____ by adapting into a Plan the District’s e-learning program implemented pursuant to 105 ILCS 5/10-20.56

See policies 6:20, *School Year Calendar and Day*, 6:300, *Graduation Requirements*, 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students*, and Executive Order 2020-31 (addressing the statutory minimum state graduation requirements (not local requirements that exceed the State-identified minimums)) and allowing local school boards to amend policies to reduce any local graduation requirements adopted in excess of the minimum requirements specified in School Code that school districts were unable to complete during the 2019-20 school year due to the suspension of in-person instruction and/or the *Stay-at-Home* orders issued in response to the 2020 COVID-19 pandemic). Executive Order 2020-31 provided the following proclamations:

Section 8. The following provisions of the Illinois School Code, 105 ILCS 5/1-1 et seq., requiring certain assessments and courses for twelfth grade students, are suspended:

- a. 105 ILCS 5/2-3.64a-5(c) (requirement to take State assessments),
- b. 105 ILCS 5/27-3 (requirement to pass a satisfactory examination on patriotism and the principles of representative government),
- c. 105 ILCS 5/27-6(a) (requirement to engage in a course of physical education for a minimum of 3 days per 5-day week), and
- d. 105 ILCS 5/27-12.1(a) (requirement to be taught consumer education).

Section 9. The provision of the Illinois School Code, 105 ILCS 5/10-22.43a, requiring the successful completion of a foreign language proficiency examination for students whose foreign language credit is met through an approved ethnic school program, is suspended.

Section 10. The provision of the Illinois School Code, 105 ILCS 5/27-6.5, requiring physical assessments, is suspended.

Section 11. The provision of the Illinois School Code, 105 ILCS 5/27-22(e), requiring the successful completion of certain courses as a prerequisite to receiving a high school diploma, is suspended for twelfth grade students who are unable to complete such coursework as a result of the suspension of in-person instruction due to COVID-19.

1. Recommends to the Board for consideration any suspensions or amendments to curriculum-related policies to reduce any Board-required graduation or other instructional requirements in excess of minimum curricular requirements specified in School Code that the District may not be able to provide due to the pandemic; ~~14~~
2. Implements the requirements of 105 ILCS 5/10-30; and
3. Ensures a plan for periodic review of and/or amendments to the Plan when needed and/or required by statute, regulation, or State guidance.

LEGAL REF.: 105 ILCS 5/10-16.7, ~~and~~ 5/10-20.5, 5/10-20.56, and 5/10-30.
5 ILCS 120/2.01 and 120/7(e), Open Meetings Act,
~~Ill. Dept. of Public Health Act (Part 1), 20 ILCS 2305/2(b), Ill. Dept. of Public Health Act (Part 1),~~
~~Ill. Emergency Management Agency Act, 20 ILCS 3305/, Ill. Emergency Management Agency Act.~~
~~Ill. Educational Labor Relations Act, 115 ILCS 5/, Ill. Educational Labor Relations Act.~~

CROSS REF.: 1:20 (District Organization, Operations, and Cooperative Agreements), 2:20 (Powers and Duties of the School Board; Indemnification), 2:220 (School Board Meeting Procedure), 2:240 (Board Policy Development), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 3:70 (Succession of Authority), 4:170 (Safety), 5:35 (Compliance with the Fair Labor Standards Act), 5:200 (Terms and Conditions of Employment and Dismissal), 5:270 (Employment At-Will, Compensation, and Assignment), 6:20 (School Year Calendar and Day), 6:60 (Curriculum Content), 6:300 (Graduation Requirements), 7:90 (Release During School Hours), 8:100 (Relations with Other Organizations and Agencies)

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

Section 12. The provision of the Illinois School Code, 105 ILCS 5/27-21, requiring eight grade students to demonstrate evidence of having a comprehensive knowledge of the history of the United States as a prerequisite to eight grade graduation, is suspended.

Section 13. Twelfth grade students shall not be denied credit for apprenticeships or vocational or technical education courses allowed to be substituted for graduation requirements under the Illinois School Code, 105 ILCS 5/27-22.05, due to the student's inability to complete those course substitutions as a result of the suspension of in-person instruction due to COVID-19.

Section 14. The Illinois State Board of Education shall file emergency rules as needed to effectuate the intent of this Executive Order, including to suspend any regulatory provision related to: (1) student graduation requirements; or (2) student teaching, supervised field experience, or internship requirements for professional educator licenses or endorsements.

13 105 ILCS 5/10-30(3), added by P.A. 101-643 states "the district shall adopt a remote and blended remote learning day plan approved by the district superintendent." For ease of administration, to avoid confusion during implementation, and to align with the IASB Foundational Principles of Effective Governance (www.iasb.com/principles_popup.cfm), this policy assigns the duty to *adopt* the remote and blended remote learning day plan (plan) by "the district" to the board. In alignment with this policy, administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*, requires the superintendent to *approve* the plan and present it to the board for *adoption* prior to district-wide implementation and posting on the district's website.

14 105 ILCS 5/10-30(8), added by P.A. 101-643 does not excuse districts from completing all statutory and regulatory curricular mandates and offerings.

**RECIPROCAL REPORTING INTERGOVERNMENTAL AGREEMENT
BETWEEN THE VILLAGE OF NILES AND THE BOARDS OF EDUCATION OF
SCHOOL DISTRICT NOS. 63, 64, 71, and COOK COUNTY, ILLINOIS**

THIS AGREEMENT made and entered into this _____ day of _____ 2020, by and between the **VILLAGE OF NILES** (hereinafter "Village"), an Illinois Municipal Corporation, and **THE BOARDS OF EDUCATION OF SCHOOL DISTRICT NOS. 63, 64, 71 of COOK COUNTY, ILLINOIS** (hereinafter "Districts"), Illinois Public School Districts.

WITNESSETH:

WHEREAS, Article VII, Section 10 of the Constitution of the State of Illinois and the *Intergovernmental Cooperation Act*, 5 ILCS 220/1 *et seq.*, provide for the execution of agreements and implementation of cooperative ventures between public agencies within the State of Illinois; and

WHEREAS, the Districts and the Village's Local Law Enforcement Agency (being the Niles Police Department) are authorized to share information regarding criminal offenses committed by students enrolled in the Districts, pursuant to Section 10-20.14(b) of the *Illinois School Code* (105 ILCS 5/10-20.14(b)) and Section 5-905(1)(h) of the *Juvenile Court Act of 1987* (705 ILCS 405/5-905(1)(h)) for the purpose of maintaining safety in the schools and community; and

WHEREAS, Section 10-20.14 of the *Illinois School Code* (105 ILCS 5/10-20.14) mandates that a school district parent-teacher advisory committee be established and maintained to develop, with the school district's board of education, policy guidelines on pupil discipline and policy guideline procedures to establish and maintain a reciprocal reporting system between the school district and local law enforcement agencies regarding criminal offenses committed by students; and

WHEREAS, the Districts have established said parent-teacher advisory committees and have developed such policy guidelines and policy guideline procedures to establish and maintain such a reciprocal reporting system; and

WHEREAS, the Districts and the Village recognize the need for educators and law enforcement officials to have access to information regarding activities of minor students in and out of school, so that they may work together in as efficient a manner as possible to prevent, eliminate and discourage acts of crime, violence and intimidation; and

WHEREAS, the Districts and the Village desire to establish and maintain a reciprocal reporting system regarding criminal offenses committed by students, as authorized by Section 10-20.14(b) of the *Illinois School Code* (105 ILCS 5/10-20.14(b)); and

WHEREAS, the Districts and the Village mutually agree that this Agreement is intended only to provide for the sharing of information regarding criminal offenses committed by students between each individual District and the Village and is not intended to authorize the sharing of such information between Districts;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises herein contained, it is hereby mutually agreed by and between the Districts and the Village as follows:

1. Designation of an administrative contact person. Each District, in cooperation with its parent-teacher advisory committee, shall designate an administrative contact person to act as a liaison between the District and the Niles Police Department ("NPD") for the purpose of reciprocal reporting of criminal offenses committed by students. This contact person will be the Superintendent or a person designated by the Superintendent. The Village shall likewise designate an administrative contact person to act as a liaison between the Village and the District for the purposes of providing to the District law enforcement records concerning students enrolled in the District and the sharing of other information, as described in Sections 2, 3, and 4 of this Agreement. The undersigned parties may each further designate an alternate designee who shall perform the duties of the primary designee in the event of the primary designee's unavailability.

This Agreement is intended only to permit the sharing of information regarding criminal offenses committed by students between each District and the Village. Sharing of such information between Districts shall be in accordance with applicable State and Federal law.

2. Written records - NPD to District. Law enforcement records may be transmitted to or copied by the District's Superintendent or Superintendent's designee when the record concerns a minor who is enrolled in a school within the District and who has been arrested or taken into custody for any one or more of the following offenses:

- a. Any violation of Article 24 of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5/24 *et seq.*);
- b. A violation of the Illinois Controlled Substances Act (720 ILCS 570/100 *et seq.*);
- c. A violation of the Cannabis Control Act (720 ILCS 550/1 *et seq.*);
- d. A forcible felony as defined in Section 2-8 of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5/208);
- e. A violation of the Methamphetamine Control and Community Protection Act (720 ILCS 646/1 *et seq.*);
- f. A violation of Section 1-2 of the Harassing and Obscene Communications Act (720 ILCS 5/26.5);
- g. A violation of the Hazing Act;
- h. A violation of Section 12-1, 12-2, 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5, 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5).

The limitations of this Section shall be deemed to be expanded or further restricted in accordance with any subsequent amendments to Sections 1 – 7(8) and/or 5-905(1)(h) of the *Juvenile Court Act of 1987* (705 ILCS 405/1 – 7(8) and/or 705 ILCS 405/5-905(1)(h)).

The information derived from the law enforcement records shall be kept separate from and shall not become a part of the official school record of that child and shall not be a public record. The information shall be used solely by the appropriate school official or officials whom the District Superintendent or Superintendent's designee has determined to have a legitimate educational or safety interest to aid in the proper rehabilitation of the child and to protect the safety of students and employees in the school.

3. Oral reports – NPD to District. In the event that NPD believes that there is an imminent threat of physical harm to students, school personnel, or others who are present in the school or on school grounds, NPD may orally share information with the District about a minor who is the subject of a current police investigation that is directly related to school safety. This information shall be used solely by the appropriate school official or officials to protect the safety of students and employees in the school and aid in the proper rehabilitation of the child and not include written law enforcement records, except under the conditions described in Section 2.

4. Student detention reports – NPD to District. In accordance with Section 22-20 of *The School Code* (105 ILCS 5/22-20), NPD shall report to the Principal of the child's school or the District liaison, if identified as designee for the District's principals, whenever a child enrolled therein is detained for proceedings under the *Juvenile Court Act of 1987*, as heretofore and hereafter amended, or for any criminal offense or any violation of a municipal ordinance. The report shall include the basis for detaining the child, circumstances surrounding the events which led to the child's detention, and status of proceedings. The report shall be updated as appropriate to notify the Principal or the District liaison of developments and the disposition of the matter. The information transmitted to the District pursuant to this paragraph shall be kept separate from and shall not become a part of the official school record of such child and shall not be a public record. Such information shall be used solely by the appropriate school official or officials whom the District has determined to have a legitimate educational or safety interest to aid in the proper rehabilitation of the child and to protect the safety of the students and employees in the school.

5. Victim identification – NPD to District. NPD may disclose to the District's Superintendent or Superintendent's designee the identity of minor who is a victim of aggravated battery, battery, attempted first degree murder, or other non-sexual violent offense, for the purpose of preventing foreseeable future violence involving minors, subject to approval by the presiding judge of the juvenile court.

6. Oral reports – District to NPD. Verbal reports of criminal offenses identifying individual students may be made to the NPD by the Superintendent or designee or by

District personnel who have personal knowledge of the criminal offenses involved. District personnel shall consult with the Superintendent or the Superintendent's designee prior to making any such report.

7. Written reports – District to NPD. Written reports to the NPD identifying individual students who have committed or are believed to have committed criminal offenses shall be made only:

- a. By a member of the District's law enforcement unit, who shall provide only written information created and maintained by the District's law enforcement unit for the purpose of law enforcement; or
- b. By the District's Superintendent or the Superintendent's designee, who may disclose permanent or temporary student record information to NPD when necessary for the discharge of the officers' official duties, but only upon their request for such information prior to adjudication of the student and upon their written certification that the information will not be disclosed to any other party except as provided under law or order of court; or
- c. Pursuant to a court order or a subpoena accompanied by a court order.

8. Confidentiality of information reported. All information, whether verbal or written, disclosed to the contact persons/designees shall be kept confidential unless disclosure is permitted or required by law to another party. Each party hereto shall develop procedures designed to ensure that such information is not available to its employees or other persons other than as authorized by this Agreement and applicable State and Federal law. No information described by this agreement shall be disclosed or made available in any form to any person or agency outside this Agreement unless specifically authorized by law.

9. Scope of District's reporting authority. The authority of the District Superintendent or the Superintendent's designees to report under this Agreement shall extend to information pertaining to alleged or suspected criminal activities occurring in school, on school grounds, at a school-related activity, or by or against school property, personnel or other students. Information provided should, if possible and when legally permissible, include the names of all involved persons, including those of students, and should be transmitted as promptly as possible after it is received by the sending party.

10. SHOCAP reporting. Nothing contained in this Agreement is intended to prevent the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program (SHOCAP)(705 ILCS 450/5-145) when that information is used to assist in the early identification and treatment of habitual juvenile offenders and such sharing is otherwise allowed by law.

11. Disclosure of student records to comply with applicable laws. Student records may be disclosed only to the extent permitted by law, including the *Illinois School Student Records Act* (105 ILCS 10/1 *et seq.*), the *Family Educational Rights and Privacy Act* (20 U.S.C. 1232g), and the *Illinois Mental Health and Developmental Disabilities Confidentiality Act* (740 ILCS 110/1 *et seq.*). The *Illinois Criminal Code of 1961* (720 ILCS 5/1 *et seq.*), the *Juvenile Court Act of 1987*

(705 ILCS 405/1 *et seq.*), and the *Juvenile Justice Reform Provisions of 1998* (Public Act 90-590) shall be used as references for definitions.

12. Notices to the Districts. Any notices required hereunder to be sent to the Districts shall be delivered or served in writing to:

Superintendent
School District No. 64
164 S. Prospect Avenue
Park Ridge, Illinois 60068

Superintendent
School District No. 63
10150 Dee Road
Des Plaines, Illinois 60016

Superintendent
School District No. 71
6901 W. Oakton St
Niles, Illinois 60714

13. Notices to Niles Police Department. Any notices required hereunder to be sent to the NPD shall be delivered or served in writing to:

Chief of Police
Niles Police Department
7000 W. Touhy Avenue
Niles, Illinois 60714

14. Amendment of Agreement. This Agreement may be amended only through written mutual consent of the parties referencing this Agreement, and a copy of any such written amendment shall be attached to this Agreement.

15. Effective date and duration of Agreement. This Agreement and any amendments hereto shall become effective when approved and executed by all parties, and shall remain in effect from year to year thereafter unless the Village or any District takes action to terminate the Agreement.

16. Termination of Agreement. The Village or any District may terminate this Agreement any time during the term by providing the other party thirty (30) calendar days prior written notice of such termination. In the event that any District terminates this Agreement, such termination shall have no effect on the validity of this Agreement with respect to all other Districts. The Village and any District may also terminate this Agreement by written mutual consent.

17. Indemnification.

(a) The District agrees to indemnify the Village from and against all claims and demands, actions, causes of action, and costs and fees due to the acts, omissions, neglect or misconduct

of the District and its board members, employees, and agents related to this Agreement. The Village agrees to indemnify the District from and against all claims and demands, actions, causes of action, and costs and fees due to the acts, omissions, neglect or misconduct of the Village and its board members, employees, and agents related to this Agreement.

~~(a) The Agency shall, at all times, fully indemnify, hold harmless, and defend the Village of Niles and their officers, agents, and employees from and against any and all claims and demands, actions, causes of action, and cost and fees of any character whatsoever made by anyone whomsoever on account of or in any way growing out of this Agreement or because of any act or omission, neglect or misconduct of the District, its employees invitees, members, guests, affiliates or agents or its subcontractors including, but not limited to, any claims that may be made by the employees themselves for injuries to their person or property or otherwise. The forgoing obligation of the District to indemnify shall not be limited by reason of insurance or immunity.~~

~~(b) Nothing contained herein shall be construed as prohibiting the District or the Village of Niles and their officers, agents, or its employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, actions or suits brought against them. The District shall likewise be liable for the cost, fees and expenses incurred in defense of any such claims, actions, or suits.~~

~~(c) The District shall be responsible for any damages incurred as a result of its errors, omissions or negligent acts of the Village.~~

~~(d) Neither the District nor the Village of Niles does not waives any defense or immunity which may be available to it, including those provided by the *Local Government and Governmental Employees Tort Immunity Act*, 745 ILCS 10/1 et seq. or by reason of indemnification or insurance.~~

[SIGNATURES PAGES TO FOLLOW]

VILLAGE OF NILES, for
NILES POLICE DEPARTMENT

By: _____
Steven Vinezeano, Village Manager

Attest: _____
Marlene Victorine, Village Clerk

Acknowledged: _____
Luis C. Tigera,
Chief of Police

Date: _____

BOARD OF EDUCATION
SCHOOL DISTRICT NO. 64

By: _____
(Insert Name), President

Attest: _____
(Insert Name), Secretary

Date: _____

BOARD OF EDUCATION
SCHOOL DISTRICT NO. 63

By: _____
(Insert Name), President

Attest: _____
(Insert Name), Secretary

Date: _____

BOARD OF EDUCATION
SCHOOL DISTRICT NO. 71

By: _____
(Insert Name), President

Attest: _____
(Insert Name), Secretary

Date: _____

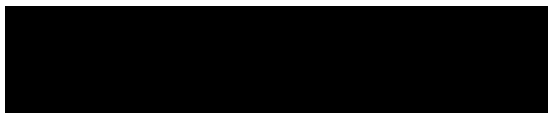
TO: Board of Education
 FROM: Eric Olson, Superintendent
 DATE: September 18, 2020
 RE: Review/Release of Closed Minutes

Superintendent Eric Olson and Board Secretary Carol Sales reviewed closed minutes from January 27, 2020, through July 9, 2020.

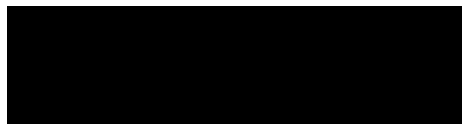
CONSIDERATION OF DISTRICT 64 CLOSED SESSION MINUTES

DATE OF MEETING	ISSUE	RECOMMENDATION
January 27, 2020	Personnel issues Collective negotiating matters	hold
February 18, 2020	Collective negotiating Student disciplinary issue	hold
April 20, 2020	Personnel issues Collective negotiating matters	hold
April 27, 2020	Personnel issues	release
May 18, 2020	Personnel issues Collective negotiating matters	hold
May 26, 2020	Collective negotiating matters	hold
June 17, 2020	Collective negotiating matters	hold
June 22, 2020	Personnel issues Collective negotiating matters	hold
July 9, 2020	Personnel issues	hold

Reviewed and approved by :



Dr. Eric Olson, Superintendent



Carolina Y. Sales, Board Secretary

Approval of Minutes

ACTION ITEM 20-10-4

I move that the Board of Education of Community Consolidated School District 64 Park Ridge-Niles, Illinois approve the minutes from the Closed Meeting on September 10, 2020; and the Regular Meeting on September 10, 2020.

The votes were cast as follows:

Moved by _____ Seconded by _____

AYES:

NAYS:

PRESENT:

ABSENT:

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**BOARD OF EDUCATION
COMMUNITY CONSOLIDATED SCHOOL DISTRICT 64
Minutes of the Regular Board of Education Meeting held at 7:00 p.m.
September 10, 2020
VIRTUAL MEETING DUE TO COVID-19
Alternate Remote Attendance at Carpenter School (North Gym)**

Board President Rick Biagi called the meeting to order at 6:30 p.m. All participants attended via remote participation unless otherwise noted. Other Board members in attendance via remote participation were Tom Sotos, Dr. Denise Pearl, Fred Sanchez, Rebecca Little, and Larry Ryles. Superintendent Eric Olson attended in person at Carpenter School, along with Board member Carol Sales. Also attending remotely were Assistant Superintendent for Human Resources Joel T. Martin; and Legal Counsel Tony Loizzi.

Board of Education meetings are videotaped and may be viewed in their full length from the District's website at <http://www.d64.org>. The agenda and reports for this meeting are also available on the website or through the District 64 Educational Service Center, 164 S. Prospect Ave., Park Ridge, IL 60068.

BOARD RECESSES AND ADJOURNS TO CLOSED MEETING

At 6:31 p.m. it was moved by Board member Sotos and seconded by Board member Ryles to adjourn to closed session to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific individuals who serve as independent contractors, or specific volunteers of the District or legal counsel for the District, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor, or a volunteer of the District or against legal counsel for the District to determine its validity. However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with this Act [5 ILCS 120/2(c)(1)]; and collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees [5 ILCS 120/2(c)(2)].

The votes to adjourn to the closed meeting were cast as follows:

Ayes: Little, Biagi, Pearl, Sotos, Sales, Sanchez, Ryles

Nays: None

Present: None

Absent: None

The motion carried.

BOARD ADJOURNS FROM CLOSED MEETING AND RESUMES THE REGULAR MEETING

The Board resumed the regular meeting at 7:00 p.m. In addition to those listed above, also attending in person was Assistant Superintendent for Student Learning Lori Lopez and Public Information Coordinator

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Peter Gill (attending but not participating). Attending via remote participation were Chief School Business Official Luann Kolstad; Director of Student Services Lea Anne Frost, Director of Innovation and Instructional Technology Mary Jane Warden; Director of Facility Management Ronald DeGeorge; Administrative Assistant to the Superintendent Natasha Nedeljkovic; and Board Legal Counsel Tony Loizzi. Approximately 5 members of the public were physically present at the alternate remote location, and 27 attended virtually.

PLEDGE OF ALLEGIANCE

Board member Larry Ryles led the pledge.

OPENING REMARKS FROM PRESIDENT OF THE BOARD

Mr. Biagi had no opening remarks.

PUBLIC COMMENTS

Public comments were invited through a posted email address on the District website and in the Board report. Public comments were also welcomed at the alternate remote location. No public comments were received on non-agenda items.

APPROVAL OF MEETING AGENDA

No changes were made to the agenda.

STUDENT/STAFF RECOGNITION

Superintendent Olson invited Roosevelt principal Dr. Kevin Dwyer to the podium to talk about tonight’s student being recognized: Adam Ferraro. Dr. Dwyer and Adam attended the meeting in person. Dr. Dwyer noted that Adam attended Roosevelt from kindergarten in 2008-2009 through 5th grade and is now a senior at Maine South. Adam completed an Eagle Scout project at Roosevelt School this past summer: two colorful sensory pathways on the Roosevelt blacktop using templates he created. Each of the ‘n’ shaped pathways was made up of a series of symbols along a path encouraging kids to jump, run, leap, hop, balance and step on or around squares. The pathways are designed to help kids develop motor skills, balance, special awareness and to build brain connections. Adam selected this project because of the positive impact it would have on the students, and at the suggestion of Dr. Dwyer.

ADOPTION OF DISTRICT 64 BUDGET FOR 2020-21

Chief School Business Official (CSBO) Luann Kolstad began by thanking the senior administrators for their help in putting together this year’s figures and staying within a reasonable budget for each of their departments. According to Mrs. Kolstad, this year’s budget was particularly difficult to draft due the uncertainty brought on by the pandemic. She stated that expenses were added to the budget for COVID-19 related supplies such as student desks, plexiglass protection, floor markings for social distancing, personal protective equipment such as masks and shields, as well as various cleaning supplies. CSBO Kolstad noted that although expenditures were up compared to the previous year, revenues were up as well by 7.1% over

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2019-20. The 2020-21 budget shows revenues exceeding expenditures by nearly \$2.4 million. The budget will also benefit from higher than expected new construction revenue. The equalized assessed valuation increased by 16.87% in the 2019 tax levy over the 2018 tax levy. The District was also able to complete the Washington School construction project without having to take out bonds, but rather by moving money from Working Cash and Operations and Maintenance funds. Mrs. Kolstad noted that the District should finish the year with a 49.2% fund balance. She said she was glad to bring a balanced budget to the Board and could bring back an amendment later in the year, should it be necessary, due to further impacts from the COVID-19 pandemic. Mr. Sotos thanked CSBO Kolstad for her work over the previous years to ensure the District had a “rainy day” fund, that he noted had arrived with the pandemic. The Board members had no further comments or questions, and none were received from the public.

ACTION ITEM 20-09-1

It was moved by Board member Sanchez and seconded by Board member Pearl that the Board of Education of Community Consolidated School District 64, Park Ridge-Niles, Illinois adopt the budget for the fiscal year beginning July 1, 2020, and ending June 30, 2021, as presented.

The votes were cast as follows:

AYES: Sanchez, Little, Ryles, Sales, Sotos, Biagi, Pearl

NAYES: None

PRESENT: None

ABSENT: None

The motion carried.

OPENING ENROLLMENT & STAFFING REPORT

Assistant Superintendent for Human Resources, Dr. Joel Martin, stressed once again what a unique year this was for the District. He stated that enrollment was down 66 students from the previous year. Enrollment had been most volatile at the elementary level, which was not typical. The volatility occurred both in students unenrolling, and new students coming into the District. He gave the Board a detailed overview of the enrollment at each school and stated that enrollment in the end came 157 students shy of the District’s projections. Staffing was up due to the new Student Learning Center (SLC) added at Washington School, which had required the addition of a new teacher and a support staff member. Dr. Martin anticipated more changes during the year once the District returned to an in-person learning format.

START OF SCHOOL UPDATE

Assistant Superintendent for Student Learning and Director of Student Services Dr. Lea Anne Frost gave the Board a summary of the start of the school year for all students. Dr. Frost noted that parents of special education students had the option to send their students to school 5 days a week. Currently 35 students attend in-person, a number that she anticipated would increase in the next few days. 12 special education students were attending remotely. Related services were also provided remotely. Dr. Lopez stated that building meetings had taken place the day before with a focus on the in-person return planning and feedback

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on remote learning from staff. The District, while also gathering feedback from students, was in the process of designing a parent survey to gain feedback on the remote learning experience. Dr. Lopez thanked the teachers and principals, as well as the parents, for their cooperation. Responding to a Board member question, Dr. Lopez stated that the attendance rate was 94% for the first week of school, noting this was typical for the District for normal attendance times; she did confirm that it was up from the spring attendance rate. She explained that truancy laws are in effect and schools will be contacting parents if students are frequently absent. Dr. Frost also updated the Board on the PT3 program (Parents and Teachers talking together), stating that the group will meet on September 15 for the first time this year to continue its work. Dr. Frost responded to a question from Board member Little to say that the new SLC at Washington School was working out well. Students were settling into the new classroom and staff was doing everything to get the program full speed ahead.

PRESENTATION & APPROVAL OF SUPERINTENDENT GOALS

Dr. Olson noted this had been and continued to be a collaborative process with the Board members. The goals presented were based on members' requests from last year. He stated that while COVID-19 and its impact was still his number one focus, the District needed to move forward with the other topics he had listed. Dr. Olson said he wanted to continue working on strengthening relationships and improving communication; crafting a new Strategic Plan, a process which had been derailed in the spring by the pandemic and would resume in the coming weeks; reviewing the Kindergarten program and exploring a full-day plan, with a committee to be formed; and finally, a District-wide facilities plan for the next several years. He stressed the importance of focusing on the future. He noted he would like two Board members to join the Strategic Plan committee, and another to serve on the Kindergarten review. He mentioned that while these were the more important goals, he was also still evaluating the new special education program at Washington, and planning a diversity task force to tackle racial inequality and how the District can improve on diversity. Board members discussed the evaluation template document provided by the State which had been used to evaluate the superintendent this past spring. While the members felt comfortable with the goals presented tonight, they wanted to ensure that they were not tied to the evaluation template, and could improve on the metrics in the document to make the process easier and more tailored. Legal counsel confirmed that this was possible and that the Board was only approving the goals tonight, not the evaluation template itself. Dr. Olson agreed to work with the Board to help them tailor the template.

ACTION ITEM 20-09-2

It was moved by Board member Pearl and seconded by Board member Little that the Board of Education of Community Consolidated School District 64, Park Ridge-Niles, Illinois approve the Superintendent goals as discussed and agreed upon.

The votes were cast as follows:

AYES: Ryles, Sales, Little, Sanchez, Biagi, Pearl, Sotos

NAYES: None

PRESENT: None

ABSENT: None

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The motion carried.

APPROVAL OF RECOMMENDED PERSONNEL REPORT

It was noted that the Board is relying upon the recommendation of the Superintendent and administration in their professional judgment as to the hiring of these individuals per Policy 2:130.

Sarah Bozai - Employ as 5th Grade Teacher at Field School effective August 24, 2020 - BA, Step 1 - \$53,166.

Karen Burriesci - Employ at Channels of Challenge Teacher at Washington School effective August 24, 2020 - BA, Step 1 - \$53,166.

Julia Clarke - Employ as .75 Foreign Language Teacher at Emerson School effective August 24, 2020 - MA, Step 1 - \$45,863.25.

Chearee Hardt - Employ as Social Worker at Franklin School effective August 24, 2020 - MA+24, Step 1 - \$67,115.

Nicolette Fabiano - Employ as Special Education Teaching Assistant at Roosevelt School effective August 27, 2020 - \$16.66 hourly.

Nicole Gaggiano - Employ as Science Teacher at Emerson School effective August 24, 2020 - BA, Step 1 - \$53,166.

Florence Gorman - Employ as Special Education Teaching Assistant at Lincoln School effective August 24, 2020 - \$16.66 hourly.

Alison Khachaturian - Employ as .5 Kindergarten and .2 Channels of Challenge Teacher at Washington School effective August 24, 2020 - BA, Step 1 - \$37,216.20.

Joshua Kriss - Employ as .72 Physical Education Teacher at Lincoln School effective August 24, 2020 - BA, Step 1 - \$38,279.52.

Marisa Maune - Employ as Special Education Teaching Assistant at Roosevelt School effective August 27, 2020 - \$16.66 hourly.

Taylor Miller - Employ as Language Arts Teacher at Emerson School effective August 24, 2020 - MA, Step 1 - \$61,151.

Katherine Newman - Employ as EL Teacher at Washington School effective August 24, 2020 - BA+12, Step 2 - \$56,146.

Elizabeth Painter - Employ as Building Secretary at Franklin School effective August 28, 2020 - \$19.02 hourly.

Molly Petray - Employ as .7 EL Teacher at Franklin School effective August 24, 2020 - BA+12, Step 1 - \$38,605.

Cathy Polymenakos - Employ as .25 C of C Teacher at Lincoln School effective September 1, 2020 - MA, Step 1 - \$15,287.75.

Jennifer Rhyan - Employ as Science Teacher at Lincoln School effective August 24, 2020 - BA, Step 1 - \$53,166.

Thomas Russell - Employ as Night Custodian at Washington School effective August 31, 2020 - \$17.06 hourly.

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Samantha Sanders - Employ as .5 Kindergarten and Teacher at Field School effective August 24, 2020 - MA, Step 1 - \$30,575.61.

Mara Shapiro - Employ as Language Arts Teacher at Lincoln School effective August 24, 2020 - BA, Step 1 - \$53,166.

Kellie Shutter - Employ as Language Arts Teacher at Emerson School effective August 24, 2020 - BA, Step 1 - \$53,166.

Samantha Williams - Employ as .5 Kindergarten Teacher at Roosevelt School effective August 24, 2020 - BA, Step 1 - \$26,583.17.

Heidi Auriemma - Rehire as Special Education Teaching Assistant at Lincoln School effective August 24, 2020 - \$16.79 hourly.

Rebecca Bergeron - Rehire as Special Education Teaching Assistant at Roosevelt School effective August 24, 2020 - \$16.79 hourly.

Catherine Biller - Rehire as Special Education Teaching Assistant at Lincoln School effective August 24, 2020 - \$16.79 hourly.

Jamie Busse - Rehire as Special Education Teaching Assistant at Roosevelt School effective August 24 - \$16.79 hourly.

Marnie Cienkus - Rehire as Special Education Teaching Assistant at Roosevelt School effective August 24, 2020 - \$16.79 hourly.

Frances Fournaris - Rehire as Special Education Teaching Assistant at Lincoln School effective September 2, 2020 - \$16.79 hourly.

Jeanne Gibbons - Rehire as Special Education Teaching Assistant at Field School effective August 24, 2020 - \$16.79 hourly.

Ilona Hutter - Rehire as .91 Instrumental Music and General Music Teacher for District and Carpenter School effective August 24, 2020 - MA+12 Step 2 - \$59,267.39.

James Kapolnek - Rehire as Special Education Teaching Assistant at Emerson School effective August 24, 2020 - \$16.79 hourly.

Marilyn Kim - Rehire as .48 Art Teacher at Field, Roosevelt, and Washington Schools effective August 24, 2020 - BA, Step 1 - \$25,679.34.

Hallie Leach - Rehire as Special Education Teaching Assistant at Roosevelt School effective August 24, 2020 - \$16.79 hourly.

Jacqueline Mirza - Rehire as Special Education Teaching Assistant at Jefferson School effective August 24, 2020 - \$16.79 hourly.

Marie Murphy - Rehire as .5 Special Education Teaching Assistant at Franklin School effective August 24, 2020 - \$16.79 hourly.

Milton Nelson - Rehire as Special Education Teaching Assistant at Roosevelt School effective August 24, 2020 - \$16.79 hourly.

Melissa O'Connor - Rehire as Special Education Teaching Assistant at Washington School effective August 24, 2020 - \$16.79 hourly.

Laura Papageorgiou - Rehire as .38 Physical Education Teacher at Franklin School effective August 24, 2020 - MA, Step 2 - \$23,616.16.

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Zara Radkov - Rehire as Special Education Teaching Assistant at Emerson School effective August 24, 2020 - \$16.79 hourly.

Carrie Ryan - Rehire as Special Education Teaching Assistant at Roosevelt School effective August 24, 2020 - \$16.79 hourly.

Adam Tsikretsis - Rehire as Special Education Teaching Assistant at Carpenter School effective August 26, 2020 - \$16.79 hourly.

Todd Vucsko - Rehire as Special Education Teaching Assistant at Field School effective August 24, 2020 - \$16.79 hourly.

Maria Elena Ward - Rehire as Special Education Teaching Assistant at Carpenter School effective August 24, 2020 - \$16.79 hourly.

Linda George - Resign as Special Education Teaching Assistant at Franklin Elementary School effective August 24, 2020.

Nancy Sweeney - Leave of Absence, unpaid - District Teacher effective September 11, 2020.

Russ Haak - Retire as Special Education Teaching Assistant at Roosevelt School effective September 1, 2020.

Christine Perille - Retire as Library Resource Center Assistant at Carpenter School effective August 28, 2020.

ACTION ITEM 20-09-3

It was moved by Board member Little and seconded by Board member Sanchez that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois approve the Personnel Report for September 10, 2020, noting that the Personnel Report is based on the recommendation of the Superintendent and not upon the Board’s direct knowledge regarding any of the specific individuals selected for employment.

The votes were cast as follows:

AYES: Sales, Biagi, Sotos, Sanchez, Pearl, Little, Ryles

NAYS: None

PRESENT: None

ABSENT: None

The motion carried.

CONSENT AGENDA

Before voting on the consent agenda, the Board members agreed to remove Policy 4:180 (Pandemic Preparedness) from PRESS 104 from the consent agenda for a further discussion.

- Bills, Payroll and Benefits

Bills

Fund

10 - Education Fund

Fund Total

\$ 457,762.78

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20 - Operations and Maintenance Fund	\$ 237,989.92
30 - Debt Services	\$ 12,859.05
40 - Transportation Fund	\$ 1,848.00
50 - Retirement (IMRF/SS/MEDICARE)	\$ -
60 - Capital Projects	\$ 113,986.66
61 - Capital Projects-2017 Debt Certificates	\$ -
80 - Tort Immunity Fund	\$ -
90 - Fire Prevention and Safety Fund	\$ -
<u>Total:</u>	<u>\$ 824,446.41</u>

Payroll & Benefits

<u>Fund</u>	<u>Fund Total</u>
10 - Education Fund	\$ 5,485,867.07
20 - Operations and Maintenance Fund	\$ 982,559.44
30 - Debt Services Fund	\$ 25,718.10
40 - Transportation Fund	\$ 3,272.12
50 - IMRF/FICA Fund	\$ 96,831.59
51 - SS/Medicare	\$ 88,515.19
60 - Capital Projects Fund	\$ 3,024,732.13
61 - Cap Projects Fund - 2017 Debt Certs	\$ 0.00
80 - Tort Immunity Fund	\$ 500,361.50
<u>Total:</u>	<u>\$10,207,857.14</u>

The Accounts Payable detailed list can be viewed on the District 64 website's business services page at www.d64.org.

- Approval of Financial Update for the Period Ending July 31, 2020
- Second Reading and Approval of Policies from PRESS 104
- Destruction of Audio Closed Recordings (none)

ACTION ITEM 20-09-5

It was moved by Board member Sanchez and seconded by Board member Pearl that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Consent Agenda for September 10, 2020, which includes: Bills, Payroll and Benefits; Approval of Financial Update for the Period Ending July 31, 2020; Second Reading and Approval of Policies from PRESS 104, with the exception of Policy 4:180; and the Destruction of Audio Closed Recordings (none).

The votes were cast as follows:

AYES: Biagi, Sotos, Ryles, Little, Pearl, Sanchez, Sales

NAYS: None

PRESENT: None

ABSENT: None

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The motion carried.

DISCUSSION OF BOARD POLICY 4:180 PANDEMIC PREPAREDNESS

President Biagi noted that there had been some background discussion about this policy following the Board policy committee meeting and the last regular Board meeting, between himself, legal counsel, Dr. Olson, and Board secretary Carol Sales. Legal counsel Tony Loizzi explained his firm’s opinion about what is legally required under the state statute regarding the remote or blended remote learning environment. The law in effect in June says that the District can adopt a remote or blended learning day plan that has been approved by the superintendent. The Illinois Association of School Boards (IASB) removed the word “District” and replaced it with “Board” in its version of Policy 4:180. Mr. Loizzi’s partners’ opinion was that the statutory language does not require the Board to take action for two main reasons:

1. There are countless provisions in the School Code that require the Board to take action, and the term “Board” is used.
2. The statute provides for the Superintendent’s ability to revise and amend the plan without Board approval. It didn’t make sense that the Board would have to approve a plan when the Superintendent can change it without having to go back to the Board.

Mr. Loizzi explained the three categories that his clients have selected:

- **Option 1:** Accept the recommendation of Policy Reference Education Subscription Service (PRESS) and have the Board adopt the learning plan authorized by the Superintendent. This would require the Superintendent to approve the plan and then formal Board action at a meeting to adopt the plan.
- **Option 2:** Include just the statutory language. His opinion is that the Board would not have to take formal action.
- **Option 3:** A variation of option #2: Add language that the plan is approved by the Superintendent and adopted by the District but also presented and reviewed by the Board at an open meeting (middle ground).

Mr. Loizzi reiterated his opinion that no Board action is required. Districts have handled it in many different ways. Mr. Biagi asked if the Board needs to take action for changes to the Plan. Mr. Loizzi stated no, according to the statute. Mr. Biagi noted that the statute is internally inconsistent. He also inquired about the changes to the plan that would need to be brought to the Board if there is an affirmative obligation on the Superintendent and Board. Mr. Loizzi described some examples as when the District moves from full remote to hybrid or there are major changes in the way the District is offering remote learning, if that is how the Board drafts the policy. Mr. Biagi and Mr. Loizzi further discussed the level of Board involvement in the decision compared to the IASB’s recommendations and the state statute.

Mr. Sotos stated that the outcome of Board adoption and Board approval are the same. Mr. Biagi explained that the question is whether the Board wants to take formal action. It could cause a slippery slope for non-pandemic-related plans. He questioned whether the Board wants to be obligated to approve the plan. He asked the Board members if anyone has changed their opinion since the last meeting.

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Board member Sales screen shared 105 ILCS 5/10-30(3) to (5), added by P.A. 101-643, for the Board to review the text. Mr. Biagi took a “straw poll” to determine where the Board members were with respect to options 1, 2, and 3 described by Mr. Loizzi. Mr. Sotos said that if option 1 is chosen, then he wanted to know if the Board would be involved in the decision. Mr. Loizzi stated that the Board can set aside its policy with a majority vote. When the Board takes action contrary to Board policy, it is setting that policy aside.

Board member Ryles chose option 2: The Superintendent makes the decision, and the Board does not approve or adopt the plan. The Board members should be advisors/consultants and should be a part of the decision. Board member Pearl also chose option 2: She had a question about whether option 3 requires the Superintendent to present the plan publicly. Mr. Biagi stated that the obligation to present the plan prematurely might cause problems. He trusts that the Superintendent will give the Board a “heads up” and is nervous about imposing an obligation to present the plan publicly. Dr. Pearl stated that Dr. Olson has been informing the Board. The public part is challenging and there are time constraints. A lot can shift before the October 8 Board meeting. Mr. Ryles and Dr. Pearl selected option 2 with no affirmative obligation on Dr. Olson to present the plan formally. Mr. Biagi also selected option 2.

Mr. Sotos stated that he would only support option #1 (requiring Board adoption) if the Board is involved in the entire process. The Board shouldn’t have the burden of approving the plan if it wasn’t involved in the creation of the plan. Since that’s not the case, then he can’t support option 1 for now. He agrees that requiring the Superintendent to present the plan would create a bigger problem/issues. Mr. Sotos stated that he will select option 2 for now but reserve the right to change his mind later.

Board member Sanchez agreed with Dr. Pearl’s presentation of concerns and agreed with her selection of option 2. Mr. Sanchez thought that the Board shouldn’t be meddling in the Superintendent’s role in making the decision. Board member Little chose option 3, which contained an obligation for the plan to be presented to the public. Board member Sales chose option 1, which required the Board’s adoption of a plan that was approved by the Superintendent and allowed the Superintendent to review and amend the plan as necessary. Ms. Sales stated that when the statute says “the district shall adopt,” it means that the Board as the governing body for the District should take some type of action.

Five Board members were in favor of the “hands off” approach. The Board policy committee would present a version of Policy 4:180 that mirrored the statute for discussion. Ms. Sales also stated that requiring Board approval would be helpful if the superintendent was not collaborative. Mr. Sotos stated that the Board can change the method at any time. If the District has a superintendent the Board doesn’t trust, then the Board can demand the superintendent to ask the Board for adoption/approval. Ms. Sales stated that this would be more adversarial and take more momentum to reverse as opposed to requiring the Board’s affirmative adoption of the plan. Mr. Sotos stated that he would have voted for option 1 if the Board was involved in the

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decision the entire way through. He would appreciate at least being asked his opinion prior to a decision being made.

Mr. Biagi inquired about a procedural issue: If Dr. Olson hypothetically changed his position within the next week and a majority of the Board was not in favor, would the Board have to change the policy to take a vote? The policy doesn't require or prohibit the Board from voting. At that point, someone is calling a motion--basically a vote of "no confidence" in the Superintendent, which does not need to be on the agenda and can be done at any time. Mr. Sotos stated that it would be a vote of "no confidence" on the issue at hand.

Dr. Pearl asked Board Member Little how she would want the public presentation about the plan to be conducted. Ms. Little stated that she would want something more like a forum with a collection of questions beforehand to let people vote by the top 10 or by category so that the Superintendent wouldn't have to answer questions "on the fly" and it wouldn't have lasted for several hours. Mr. Biagi stated that if the Board selected option 3, it would have to be a formal Board meeting. The plan would be presented to the Board, and the Board would formally review it and have to formally take questions from the public. Mr. Biagi said he agrees that he would prefer a town hall meeting, and by not including it in the policy, the Board is not tying the Superintendent's hands to force it to a Board level. Ms. Sales said the Board could still have both types of meetings: the formal Board meeting in which the Board discusses and adopts the plan as well as a town hall meeting, similar to Dr. Collins' virtual meeting for Maine South's plan. Mr. Biagi reiterated that the question was whether the Board wants to tie the Superintendent's hands and that we could always have town hall meetings. Dr. Pearl stated that she would like a forum with buckets of questions, but that's not how the Board functions. Ms. Little stated that it would be two separate things with option 2: you would have a webinar and the Board could vote at a separate meeting. She stated that there should be a public unveiling of the plan.

A five to two consensus was reached in favor of option 2, which would (1) leave the remote learning plan to the Superintendent and District, without Board adoption or approval and (2) not require a formal presentation of the plan during an open meeting. The Board policy committee will finalize the proposed text of the revised policy at its next meeting on September 15 and bring it back for approval by the Board at the October 8 regular meeting. Mr. Biagi stated that before the next meeting, one of the major decision points would occur with respect to the remote or hybrid learning plan. Dr. Olson would be making a decision one way or another, and the Board wouldn't have a policy in place for that. Mr. Loizzi stated that the law applies, and it does not require the Board to take formal adoption. The Board doesn't need to have a policy on it; it's a suggestion, but it's best practice.

APPROVAL OF MINUTES

ACTION ITEM 20-09-6

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It was moved by Board member Little and seconded by Board member Pearl that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the minutes from the Regular Meeting on August 20, 2020.

The votes were cast as follows:

AYES: Biagi, Sales, Little, Sanchez, Pearl, Ryles

NAYS: None

PRESENT: Sotos

ABSENT: None

The motion carried.

OTHER DISCUSSION AND ITEMS OF INFORMATION

Dr. Olson noted the next regular Board meeting would take place on October 8. He said the District had welcomed new teachers in August and how lovely it had been to see their energy. He said the District had a very successful start to the year and so far feedback from parents had been mostly positive.

NEW BUSINESS

No new business was discussed.

ADJOURNMENT

At 9:06 p.m. it was moved by Board member Sanchez and seconded by Board member Sotos to adjourn.

The votes were cast as follows:

AYES: Biagi, Little, Sales, Pearl, Ryles, Sotos, Sanchez

NAYS: None

PRESENT: None

ABSENT: None

The motion carried.

Signed Date: October 8, 2020.

President

Secretary

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Inspire every child to



Meeting of the Board of Education Park Ridge – Niles School District 64

Regular Board Meeting Agenda
Thursday, November 12, 2020
Roosevelt School - South Gym
1001 S Fairview Avenue
Park Ridge, IL 60068

On some occasions, the order of business may be adjusted as the meeting progresses to accommodate Board members' schedules, the length of session, breaks, and other needs.

7:00 p.m. Meeting of the Board Convenes

- Roll Call

Pledge of Allegiance

Opening Remarks from President of the Board

Public Comments

Each speaker is given 3 minutes to address the Board. Comments may be made on almost any matter related to the operation of schools. Each person appearing before the Board will be treated with courtesy and respect, and the Board requests the same in return. In light of the privacy of personnel and student matters, commenters are strongly discouraged from speaking about individual staff or students during public comment. Commenters are instead encouraged to first raise such concerns privately with the Board President or Administration. The Board, however, recognizes each commenter's First Amendment rights; thus, it will not prohibit commenters from speaking about individual staff or students, subject to well-recognized exceptions under the First Amendment, such as obscenity, threats, fighting words, or incitements to violence.

A-1 Approval of Meeting Agenda

--Board President

The Board reserves the right to review the agenda at the beginning of each meeting and request additions, amendments, or deletions prior to approval.

A-2 Student/Staff Recognition

- (to come)

A-3 Return to In-Person Learning Update

--Superintendent

A-4 PT3 Board Update

--Director of Student Services/PT3 Representatives

- A-5 2019-20 Student Achievement Update & Presentation of Illinois School Report Card**
--Assistant Superintendent for Student Learning
- A-6 Present Draft Calendar for 2021-22 School Year**
--Superintendent
- A-7 Approval of Recommended Personnel Report**
--Board President **Action Item 20-11-1**
- A-8 Consent Agenda**
--Board President **Action Item 20-11-2**
- Bills, Payroll and Benefits
 - Approval of Financial Update for the Period Ending September 30, 2020
 - Approval of Financial Update for the Period Ending October 31, 2020
 - Second Reading & Approval of Policies from PRESS 105
 - Approval of Intergovernmental Agreement for Facilities Use & Operations by Beyond-the-Bell Program
 - Destruction of Audio Closed Recordings
- A-9 Approval of Minutes**
--Board President **Action Item 20-11-3**
- October 8, 2020 - Regular Meeting
- A-10 Other Discussion and Items of Information**
--Superintendent
- Upcoming Agenda for December 10, 2020
 - FOIA requests
 - Memorandum of Information (None)
 - Minutes of Board Committees (None)
- A-11 New Business**
- Adjournment**

Next Meeting: **Thursday, December 10, 2020**
Regular Meeting - 7:00 p.m.
Lincoln School - LRC
200 S Lincoln Ave, Park Ridge, IL 60068

In accordance with the Americans with Disabilities Act (ADA), the Board of Education of Community Consolidated School District 64 Park Ridge-Niles will provide access to public meetings to persons with disabilities who request special accommodations. Any persons requiring special accommodations should contact the Director of Facility Management at (847) 318-4313 to arrange assistance or obtain information on accessibility. It is recommended that you contact the District, 3 business days prior to a school board meeting so we can make every effort to accommodate you or provide for any special needs.

Dear Luann Kolstad,

SmartProcure is submitting a commercial FOIA request to the Park Ridge-Niles Community Consolidated School District No. 64 for any and all purchasing records from 11/27/2019 (mm/dd/yyyy) to current. The request is limited to readily available records without physically copying, scanning or printing paper documents. Any editable electronic document is acceptable.

The specific information requested from your record keeping system is:

1. Purchase order number. If purchase orders are not used a comparable substitute is acceptable, i.e., invoice, encumbrance, or check number
2. Purchase date
3. Line item details (Detailed description of the purchase)
4. Line item quantity
5. Line item price
6. Vendor ID number, name, address, contact person and their email address

If you would like to let me know what type of financial software you use, I may have report samples that help to determine how, or if, you are able to respond.

Please email or click on the button below to upload the information. There is no file size limitation:

[Click Here To Upload](#)

If this request was misrouted, please forward to the correct contact person and reply to this communication with the appropriate contact information.

If you have any questions, please feel free to respond to this email or I can be reached at the phone number below in my signature.

Regards,

Ken Deloian
Data Acquisition Specialist

SmartProcure

Direct: 561-609-6943

Email: kdeloian@smartprocure.com



Fwd: FOIA Request

Luann Kolstad <lkolstad@d64.org>
To: Natasha Nedeljkovic <nnedeljkovic@d64.org>

Fri, Sep 18, 2020 at 3:50 PM

Begin forwarded message:

From: Tom Collins [REDACTED]
Date: September 18, 2020 at 4:38:52 PM EDT
To: lkolstad@d64.org
Subject: FOIA Request

Good Afternoon Ms. Kolstad,

This is a request for information under the Freedom of Information Act. I request both the amounts and evidence of payments that the Park Ridge Park District (or its agents) made to Park Ridge/Niles School District 64 in connection with after school programs held in Park Ridge/Niles School District 64 ("District 64") schools. Specifically, I'm requesting the payments (both amounts and documented evidence of payments) made by the Park Ridge Park District relating to the "Beyond the Bell" program that is run by the Park Ridge Park District on Park Ridge/Niles School District 64 property. The time period for this request is January 1, 2010 to present. I also request the following information:

- 1.) Prior to 9/16/2020, what actions did District 64 take to collect the money owed on these missed payments from the Park Ridge Park District?
- 2.) What is District 64's policy on late payments to the district? (Payments pertaining to vendors, parents, students or any other entity.)
- 3.) Is District 64 aware of any other contractual payments (with any vendor or entity) that are past due to District 64 by more than one year and, if so, how long did it take the District to cancel the contract? (Please list the party, amount owed and how long that amount has not been paid and what action District 64 took.)
- 4.) I request a list of all vendors or entities that the school has cancelled a contract with over the period of 2010 to present and the reason for the cancellation.
- 5.) When was the District 64 School Board made aware of the past due payments associated with the intergovernmental contract (referenced above) and after school program? (Please cite applicable board meeting or communication.)
- 6.) What was the total value of the Park Ridge Park District's missing payments that were contractually required as per the intergovernmental agreement for the after school program as of 9/15/2020?

This request is not for commercial purposes and I do request a fee waiver. No copies need to be certified. To the extent possible, please supply this information in electronic format to [REDACTED]. If any fees need to be assessed, please contact me before printing. I do not need to inspect the records unless they cannot be delivered electronically.

Thank you,
Thomas Collins



Fwd: FOIA request

Luann Kolstad <lkolstad@d64.org>
To: Natasha Nedeljkovic <nnedeljkovic@d64.org>

Mon, Sep 21, 2020 at 6:43 PM

Begin forwarded message:

From: Nina Terebessy <nterebessy@legalaidchicago.org>
Date: September 21, 2020 at 3:05:29 PM CDT
To: "lkolstad@d64.org" <lkolstad@d64.org>
Subject: FOIA request

Ms. Kolstad,

On February 7, 2020, our partners at Kirkland & Ellis submitted a FOIA request to you under the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140 *et seq.* To date, we have not received a complete response for this request. A copy of the original letter outlining the documents we are interested in receiving is attached.

Of note, although we are aware that your district may have already updated the requested documents in compliance with the new regulations released by the Department of Education, *we are interested in receiving the Title IX policy, procedures, and other related documents that were in effect on February 7, 2020.*

Please send a response to this request by the close of business on September 28, 2020. If you have any questions, please do not hesitate to contact me. We hope to resolve this matter efficiently and effectively.

Sincerely,

Nina Terebessy (*She, Her, Hers*)

Equal Justice Works Fellow, Children and Families Practice Group

Sponsored by AbbVie, Inc. and Kirkland & Ellis

p: 312.347.8328 **f:** 312.612.1428

120 South LaSalle Street, Suite 900, Chicago, IL 60603

www.legalaidchicago.org

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2 attachments



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 **Park Ridge Community Consolidated School District 64 (2-7-2020).pdf**
52K

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

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February 7, 2020

Via Email: lkolstad@d64.org

Ms. Luann Kolstad
FOIA Officer
Park-Ridge Community Consolidated School
District 64
Hendee Educational Service Center (ESC)
164 S. Prospect Avenue
Park Ridge, Illinois 60068

Re: Freedom of Information Request (FOIA)

Dear Ms. Kolstad:

Pursuant to 5 ILCS § 140/2, we are requesting “public records” that pertain to Park Ridge Community Consolidated School District’s grievance procedures for responding to complaints of sexual harassment (which includes but is not limited to sexual assault) and gender-based discrimination, as well as Park Ridge Community Consolidated School District’s anti-discrimination policy.

More specifically, we request: (i) a copy of Park Ridge Community Consolidated School District’s current anti-harassment and/or anti-discrimination policy; (ii) copies of all documents outlining Park Ridge Community Consolidated School District’s current procedures for responding to sexual harassment and gender-based discrimination, including both peer sexual harassment and discrimination and sexual harassment and discrimination between district employees and students; (iii) copies of any other documents or guidelines that impact the application and enforcement of these policies and procedures; and (iv) the name and contact information of Park Ridge Community Consolidated School District’s designated Title IX coordinator.

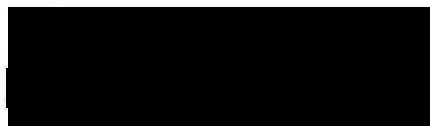
Finally, this request is submitted to assist our office in accessing and disseminating meaningful information about the legal rights of the general public in relation to Park Ridge Community Consolidated School District’s compliance with Title IX and associated state law. A waiver of fees is in the public interest pursuant to 5 ILCS 140/6(c).

KIRKLAND & ELLIS LLP

Ms. Luann Kolstad
February 7, 2020
Page 2

Please direct all responses to the undersigned. Thank you in advance for your cooperation.

Sincerely,

A solid black rectangular redaction box covering the signature area.

Karyn Cooper
Paralegal

Kirkland & Ellis, LLP
1601 Elm Street
Dallas, Texas 75201

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Freedom of Information Act Request

Ralph Schelovitzky [REDACTED]
To: nnedeljkovic@d64.org

Fri, Sep 25, 2020 at 12:01 PM

Re: Illinois Freedom of Information Act Request

Dear: Ms. Nedeljkovic

Under the **Illinois Freedom of Information Act, 5 ILCS 140**, I am requesting an opportunity to obtain copies of the following public records:

- 1.) District 64 policy and / or procedures for classroom transitions from a classroom teacher to a long-term substitute teacher when the district and / or school has been notified in advance of such a need. i.e parental leave when the teacher is contractually required to do so 120 calendar days prior to the anticipated date of birth of the child.
- 2.) District 64 policy and / or procedures on hiring, training and supervising a substitute teacher (both short-term and long-term), including any updates that may have been made to accomodate remote learning needs, i.e the use of Seesaw, Zoom, Ipads or any technology necessary to deliver a quality education via remote learning. If no such updates exist, please acknowledge its non-existence.
- 3.) District 64 policy and / or procedures in place in order to provide the same education opportunities district wide, school wide and grade level wide.
- 4.) In relation to the records requested above, any policy and / or producers that may be specific to **Franklin Elementary School** that deviate from District 64 wide policy and / or procedures. If no such deviation exists, please acknowledge its non-existence.

This request is not for commercial purposes.

Please send the requested materials via electronic delivery method.

I look forward to hearing from you in writing within five working days as required by the Act 5 ILCS 140(3). Thank you for responding to this request.

Sincerely,

Ralph Schelovitzky
[REDACTED]



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Park Ridge-Niles School District 64
Board of Education Policy Committee
Virtual Meeting via Zoom
Alternate Remote Attendance at:
Hendee Educational Service Center
164 S. Prospect Ave., Park Ridge, IL 60068

Minutes of the Meeting
September 15, 2020, at 2:00 p.m.

Committee members in attendance via video conference:

Dr. Eric Olson, Superintendent – attending from Hendee Education Service Center
Rebecca Little, Board Member
Carol Sales, Board Secretary

The Board Policy Committee meeting began via Zoom remote participation at 2:00 p.m. No members of the public attended remotely or in-person. The committee reviewed and discussed the policies listed below. The policies from PRESS 105 were previously reviewed by the District Policy Committee.

Review of Policy 4:60 *Purchases and Contracts*

The committee invited Chief School Business Official (CSBO) Luann Kolstad, and Director of Instructional Technology and Innovation Mary Jane Warden, to join the review of this policy. Some Board members had previously expressed the desire to require a more thorough bid process for purchases related to technology and associated services. The committee discussed how burdensome this would be and how it might affect the timing of delivery of devices and other necessary equipment. CSBO Kolstad noted that a bid process, as required for construction projects and other larger purchases, is time-consuming and could delay procuring devices and services in a timely manner. In addition, the bid process would require additional legal advice and input which would add significant costs. Mrs. Warden noted that the Technology department was very frugal and mindful of its annual set budget when making purchases, and had established relationships with many vendors that help ensure access to discounted products and reasonable pricing. The committee members agreed to bring an update of their discussion to the Board at the next regular meeting. Mrs. Kolstad and Mrs. Warden left the meeting at the end of the discussion.

Review Final Draft of Policy 4:180 *Pandemic Preparedness; Management; and Recovery*

The Board had reviewed and discussed this policy at the last regular meeting on September 10 and had received input from legal counsel. The final draft of the policy was reviewed and will be presented to the Board for adoption at the October 8 regular meeting.

Review Draft Policies from PRESS 105

The following policies were reviewed by the committee:

2:260 Uniform Grievance Procedure

2:265 NEW - Title IX Sexual Harassment Grievance Procedure

5:10 Equal Employment Opportunity & Minority Recruitment
5:20 Workplace Harassment Prohibited
5:100 Staff Development Program
5:200 Terms & Conditions of Employment & Dismissal
5:220 Substitute Teachers
5:330 Sick, Days, Vacation, Holidays, & Leaves
7:10 Equal Educational Opportunities
7:20 Harassment of Students Prohibited
7:180 Prevention of and Response to Bullying, Intimidation, & Harassment
7:185 Teen Dating Violence Prohibited

No changes were made to the policies as drafted or updated in PRESS 105. Dr. Olson noted that the District will keep their own version of policy 5:330 currently in place, as it is adapted to the collective bargaining agreement in effect. These policies will be presented for First Reading at the October 8, 2020, regular Board meeting, followed by a Second Reading and Approval at the November 12, 2020, regular Board meeting after any additional revisions.

New Business

No new business was discussed.

Adjournment

Meeting adjourned at 2:34 p.m.